

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:09-CR-679-HEA
)
KATHERINE A. MOCK,)
ELAIN KAY YOUNG,)
)
Defendants.)

JURY TRIAL
VOLUME 4

BEFORE THE HONORABLE HENRY E. AUTREY
UNITED STATES DISTRICT JUDGE

MARCH 15, 2012

APPEARANCES:

For Plaintiff	Michael A. Reilly, AUSA Patrick T. Judge, Sr., AUSA Thomas E. Dittmeier, AUSA OFFICE OF U.S. ATTORNEY
For Defendant Katherine A. Mock	Christopher E. McGraugh, Esq. LERITZ PLUNKERT & BRUNING P.C. Kevin Curran, AFPD OFFICE OF U.S. PUBLIC DEFENDER
For Defendant Elain Kay Young	Jennifer Herndon, Esq. Michael J. Gorla, Esq.

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1 (Proceedings started at 9:37 a.m.)

2 (The following proceedings were held in open court and
3 with the Defendants present.)

4 (The following proceedings were held within the hearing
5 and presence of the Jury.)

6 THE COURT: Morning. Ready to proceed?

7 MR. REILLY: Yes, Your Honor. At this time, the
8 Government would call Jason Wyckoff.

9 Sir, would you please step up and be sworn?

10 THE COURT: Right here, sir.

11 Proceed.

12 MR. REILLY: Thank you, Judge.

13 **JASON WYCKOFF,**

14 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. REILLY:

18 Q Will you state your name for the record?

19 A My name is Jason Wyckoff.

20 Q What is your current business, occupation, or profession?

21 A I am a DNA criminalist supervisor with the Missouri State
22 Highway Patrol Crime Laboratory in Springfield.

23 Q How long have you been a DNA criminalist, and how long
24 have you been a DNA criminalist supervisor?

25 A I have been a DNA criminalist for over 15 years, and I've

1 been a DNA criminalist supervisor since 2009.

2 Q And starting with your original duties as a DNA
3 criminalist, would you please tell us, what are the duties of
4 a DNA criminalist with the Missouri State Highway Patrol Crime
5 Laboratory?

6 A I initially began in the Offenders Profiling Unit, where
7 I was responsible for profiling convicted defenders per the
8 Missouri state law for inclusion into the COMbined DNA Index
9 System, otherwise known as CODIS, the CODIS DNA database.
10 After that -- I was in that section for about five and a half
11 years -- I transferred to the DNA Caseworking Unit where my
12 duties were to locate and genetically type biological
13 substances on evidence and make comparisons to reference
14 standards.

15 Q What are the duties and responsibilities that you
16 currently hold as a supervisor?

17 A As a supervisor, on a limited basis, I still perform some
18 casework analysis, but my main duties involve overseeing the
19 day-to-day operations of the DNA Caseworking Unit of the
20 subordinates that I supervise.

21 Q And do you still perform some work with the CODIS
22 database? You referred to something as the CODIS database.
23 Do you have duties related to the CODIS database in the
24 Missouri State Crime Laboratory?

25 A Yes. I am the local DNA database administrator or the

1 local CODIS database administrator for the Springfield lab.

2 Q What is your educational background?

3 A I have a Bachelor of Science degree in biology from
4 Southwest Missouri State University in Springfield, and I have
5 a chemistry minor.

6 Q What is -- would you relate your training, your formal
7 training, your on-the-job training?

8 A Excuse me?

9 Q Would you please tell us about your training, formal
10 training and on-the-job training to be a DNA criminalist?

11 A Sure. I had the training program for the Convicted
12 Offender Unit where I first began. It was a six-month program
13 where I was required to demonstrate competency and proficiency
14 in profiling and developing profiles for convicted offenders
15 and use of the CODIS database. In the Caseworking Section, I
16 had to demonstrate competency and proficiency in performing
17 DNA analysis as it pertains to samples that I would encounter
18 in casework -- crime scene evidence, blood, semen, touch type
19 samples -- and making comparisons to reference standards from
20 known individuals and generating reports.

21 Q And did your training include training in the application
22 of statistics to DNA results?

23 A Yes.

24 Q Have you presented in the area of DNA analysis?

25 A Yes.

1 Q On more than 10 occasions?

2 A Yes.

3 Q How many times have you had the opportunity to perform
4 DNA analysis on evidence?

5 A Hundreds of times.

6 Q Have you been previously qualified in court as an expert
7 on DNA analysis?

8 A Yes.

9 Q And did that testimony, expert testimony, include
10 testimony on applying statistics to DNA findings?

11 A Yes.

12 Q I want to move into more the substance of the matter.
13 What is DNA?

14 A DNA is a molecule that we have in the cells of our body.
15 It's often referred to as the blueprint to life. It contains
16 the genetic information that programs us to be who and what we
17 are. It programs us to have two arms and two legs, so it
18 makes us the same, yet it can make us different -- the fact
19 that you see different hair colors and different eye colors.
20 It's been estimated that 99.9 percent of a person's DNA is the
21 same from one person to the next. It's the .1 percent that's
22 different between people that the crime lab focuses on because
23 we want to know what the differences are among people's
24 profiles, so we can either include them as being a contributor
25 to a crime scene stain or exclude them as being the source of

1 a crime scene stain.

2 Q You've used a term "profile" several times now. Would
3 you define that, sir?

4 A A profile is just merely a visual representation of a
5 person's DNA at the locations that we test. At the Highway
6 Patrol Laboratory, we are looking at 16 locations.

7 Q And, again, these are the unique locations that bear
8 distinctions in the DNA profiles, correct?

9 A Yes.

10 Q Now, would you expect everyone's profile to be unique
11 except for identical twins?

12 A Yes.

13 Q Would you explain that?

14 A Identical twins would come from the same egg, so they
15 would have the same DNA profile as the egg splits. Fraternal
16 twins come from separate eggs, separate sperm, separate
17 fertilizations, so they would have separate DNA profiles or
18 distinct DNA profiles. The DNA profiling chemistry that we
19 use and the number of locations that we use has the ability to
20 differentiate between even members of a family.

21 Q Would you expect DNA to be the same no matter what cell
22 type it's coming from in a person's body?

23 A Barring certain issues such as bone marrow transplants or
24 something like that, yes.

25 Q Is DNA analysis widely used and accepted in both forensic

1 and nonforensic science?

2 A Yes.

3 Q Would you give us some examples of nonforensic uses of
4 DNA?

5 A DNA can be used for disease identification. It can be
6 used for identification of individuals of mass disasters, and
7 it can be used in paternity testing.

8 Q And in terms of disease recognition, is that information
9 that medical personnel rely on in making decisions to treat --
10 diagnose and treat patients?

11 A Yes.

12 Q And can you give us some examples of DNA, how it's been
13 used to identify victims in mass disasters?

14 A Well, one of the most recent ones that I've actually been
15 involved with was the Joplin tornado disaster that occurred
16 last May. We were taking reference standards from remaining
17 family members and comparing them to the DNA from the bodies
18 in the morgue and trying to make identifications through the
19 use of DNA.

20 Q And then you alluded to paternity testing as well?

21 A That's correct.

22 Q How is DNA used forensically in a criminal investigation?

23 A In a forensic setting, DNA can be recovered from a
24 multitude of sources, being blood, semen, hair roots, skin
25 cells, and so forth, and the goal is to attempt to develop a

1 DNA profile from those substances on crime scene evidence.

2 When a profile is developed, then we can either enter it into
3 a database, if it's eligible, the CODIS database, and search
4 for any offenders that it may hit with, or we also have the
5 possibility if reference standards are submitted with the
6 case, we can do a direct comparison, one-on-one, with the
7 profile from the reference standard to the profile from the
8 crime scene evidence to see if a match exists or not, to see
9 if an association can be established between an individual and
10 the crime scene or between two individuals or so forth.

11 Q So, in other words, can you compare the profile of an
12 unknown sample, for instance, seized at a crime scene or
13 recovered at a crime scene, with the profile of a known sample
14 to determine whether the person who gave the known sample is
15 consistent with the unknown sample that was seized at the
16 crime scene?

17 A Yes.

18 Q And can this be used to associate or exclude a person
19 from being associated with a particular piece of evidence?

20 A Yes.

21 Q And the extent of what it tells us is whether or not
22 their biological materials in one way or another have come
23 into contact with a piece of evidence?

24 A Yes.

25 Q Before we move into -- just a couple more general

1 questions before we move on. Does DNA -- at a crime scene,
2 would you expect DNA to morph or change the characteristics of
3 the DNA? Would you explain what you expect in terms of DNA at
4 crime scenes? Does its composition change?

5 A I wouldn't expect it to change. DNA does not morph over
6 time from one profile into a next. As DNA degrades over time,
7 meaning that it undergoes changes and becomes no longer
8 usable, it simply goes away on the profile. It does not
9 change into one -- from one type into the next. It just
10 simply degrades and goes away.

11 Q So based on your training and experience, you wouldn't
12 expect one profile to turn into a different profile with
13 different characteristics?

14 A That's correct.

15 Q It may change or go away -- it may degrade or go away,
16 but it won't morph into a different profile?

17 A That's correct.

18 Q Thank you. And based on your -- your training and
19 experience, how -- what are some of the scenarios by which DNA
20 may be left behind on evidence?

21 A Depending on what the situation and the circumstances of
22 the crime are, if we're dealing with somebody who is bleeding,
23 blood can be deposited on items; blood can be deposited on
24 people; blood can be transferred that way. If we're dealing
25 with a sexual assault situation, semen can be left or

1 deposited on somebody or it can be deposited on items or
2 clothing or bedding or automobiles or so forth. In the realm
3 of touch DNA, DNA can be deposited through skin cells being
4 left behind on items, such as a shirt collar, if a shirt was
5 left at the scene, or a hat that was left at the scene.

6 Q Thank you. And you referred to something called touch
7 DNA. What is it that actually causes DNA to be present in a
8 touch DNA scenario?

9 A Touch DNA is a term that has been applied to samples
10 where we wouldn't expect a high level of DNA such as would be
11 present with blood or semen. These are types of cases where
12 we would expect skin cells and a lower amount of DNA to be
13 recovered.

14 Q If you don't find DNA on a sample, does that mean that no
15 person ever touched a particular object?

16 A I wouldn't expect that to be the case.

17 Q Okay. What are some of the explanations?

18 A If I can't find DNA, it meant I either didn't test the
19 right area or maybe the DNA that was there was below my
20 threshold of detection.

21 Q And is it possible for somebody to touch something yet
22 not shed skin cells or leave a detectable amount of DNA to
23 develop a profile?

24 A I would say that it's probably the case that if I don't
25 receive a profile on a touch item, such as a pen or a doorknob

1 or a cabinet knob or something like that, that it's
2 probably -- knowing that somebody did touch it, it's probably
3 below my level of detection. I have a certain threshold limit
4 that I must meet in order to proceed in generating a DNA
5 profile.

6 Q I'm going to hand you what's already been marked for
7 identification purposes as Government's Exhibits 24D, 24D1,
8 24E, and 24F.

9 A May I open this exhibit?

10 Q Yes, sir. Do you recognize the items presented to you?

11 A Yes.

12 Q Touching on 24D and 24D1, would you please tell the
13 ladies and gentlemen of the Jury what those items are and how
14 you recognize them?

15 A 24D is a ski mask. I recognize it by my green tag, which
16 was stapled to the item. It has the lab number, date,
17 initials, and my ID, or my initials are my ID.

18 24D1 is the container that contained this mask. I
19 recognize it by my initials and date.

20 Q When you receive -- well, and please tell us what the
21 other items are as well, sir.

22 A 24E was the container that contained these gloves as well
23 as some GSR materials. I recognize it by my initials and
24 date.

25 Q When you refer to GSR materials, did Mr. Randle from the

1 crime laboratory have the opportunity to inspect the gloves
2 before you conducted DNA analysis?

3 A Yes.

4 Q So any GSR materials would have been placed in there
5 by -- by Mr. Randle; is that fair to say?

6 A Yes, I noted in my notes that they were placed in there
7 prior to my opening.

8 Q All the items that are in front of you, were they
9 properly marked, packaged, and sealed when you retrieved them
10 from evidence and had occasion to begin to conduct your
11 analysis?

12 A Yes.

13 Q Would you tell the ladies and gentlemen of the Jury
14 what -- what you did in the initial steps of your analysis to
15 determine whether there were DNA materials present on these
16 items?

17 A To backtrack, do you want me to recognize these first,
18 the gloves?

19 Q Yes. What is Government's 2F?

20 A Okay. 24F are the gloves that were in here.

21 Q Thank you.

22 A And I recognize them by my date and initials on both
23 gloves.

24 Q Thank you. And would you tell us what -- what your
25 initial steps were in terms of beginning DNA analysis on the

1 materials that you received that are before you?

2 A I began by examining the ski mask. I attempted to swab
3 three locations off of the ski mask, and by swabbing, I mean
4 simply putting a drop of water on the tip of a cotton swab,
5 the type of swab that you may encounter at a physician's
6 office, a long wood applicator stick type swab. I placed a
7 drop of water on the tip of that swab, and I rubbed it against
8 the surface that I wished to test, and the goal was to
9 transfer any skin cells that may be on those areas that I
10 tested to that swab. Once in that swab form, I can take that
11 swab and cut it, place it in a tube, and begin the DNA
12 profiling steps.

13 Q Thank you. And would you relate the specific areas you
14 swabbed on the mask and why you chose those areas?

15 A I attempted three different areas on the mask. The first
16 area was the inside apparent face area of the mask. The
17 second was a general swabbing of the general inside surface
18 that would have been away from the face area. The third area
19 was the general outside surface. I sometimes don't know how
20 the mask was actually worn and/or items of clothing are
21 actually worn. People can wear things inside out, and so in
22 the interest of seeing if I couldn't develop something in this
23 case, I swabbed the inside and the outside, two samples from
24 the inside and one from the outside.

25 Q Thank you. In terms of the analysis, what is the next

1 step in the analysis with regard to this particular piece of
2 evidence?

3 A The next step would be to see if I couldn't develop
4 profiles from those areas.

5 Q And would you tell the ladies and gentlemen of the Jury
6 if you were able to develop profiles on the ski mask or in the
7 three areas that you described?

8 A I was able to develop profiles from two of the three
9 areas.

10 Q What were those two areas?

11 A The inside face area, a profile was developed from that,
12 and the general outside surface, a DNA profile was developed
13 from that.

14 Q Now, with regard to the gloves -- well, strike that.
15 We'll walk through with one piece of evidence to describe the
16 procedure unless you prefer to discuss the gloves before we
17 move on to reference standards. We can carry one piece of
18 evidence through. Did you have profiles or did you receive
19 known profiles for which to conduct known samples for which to
20 attempt to develop profiles for comparison purposes to the
21 profiles that you developed on the ski mask?

22 A Yes.

23 Q I'm going to hand you what's been marked as Government's
24 Exhibits 10B, 11B, and 28H. Do you recognize those?

25 A Yes.

1 Q What are they?

2 A 10B is a known reference standard from Elain Kay Young.
3 I recognize it by my initials and date. 11B is a known
4 reference standard from Kathy Mock. I recognize that by my
5 initials and date. 24H is a known reference standard from
6 Melvin Griesbauer, and I recognize that by my initials and
7 date.

8 Q And when you say a reference standard, were those all --
9 were those all buccal swabs?

10 A May I check my case notes?

11 Q Yes, sir.

12 A Yes.

13 Q And are buccal swabs submitted on a regular basis to the
14 crime laboratory to attempt to develop a known -- known
15 reference sample?

16 A Yes.

17 Q And in this case, were they properly marked, packaged,
18 and sealed when they were received by the crime laboratory as
19 to each individual that you've identified associated with
20 Government's 10B, 11B -- 10B being Young, Elain Kay Young, 11B
21 being Katherine Mock, and 28H being Melvin Griesbauer?

22 A Yes.

23 Q And with the intended reference samples, were you able to
24 develop profiles to develop -- from which to develop known
25 samples?

1 A Yes.

2 Q Would you please tell the ladies and gentlemen of the
3 Jury what you developed in terms of profiles for the known
4 samples? What did that leave you with? Did you have a known
5 reference standard for Elain Kay Young, Melvin Griesbauer, and
6 Katherine Mock?

7 A Yes.

8 Q And based on that, just to walk through one piece of
9 evidence before we move on to some of the other items you
10 tested, what were the results or what did you do next in terms
11 of -- not necessarily what you did next, but what were the
12 results of the comparison of the unknown samples from the ski
13 mask, the unknown profiles, to the known reference standards
14 that were submitted?

15 A The profile from the inside surface area of the ski mask
16 was consistent with the profile from Kathy Mock. The DNA
17 profile from the general inside surface area could not be
18 developed. The DNA profile from the general outside surface
19 area of the ski mask was characteristic of a mixture. The
20 major component of that mixture was consistent with Kathy
21 Mock. Melvin Griesbauer could not be eliminated as being a
22 contributor to that mixture.

23 Q So there was a -- on the inside face area, it was
24 consistent with Katherine Mock's DNA; that's the inside face
25 area of the ski mask, correct?

1 A That's correct.

2 Q The general -- the inside general surface area, general
3 inside surface area, not the face area, you were not able to
4 develop a profile?

5 A That's correct.

6 Q And then on exterior, it was consistent with -- with the
7 DNA profile of Ms. Mock and something you referred to as a
8 mixture?

9 A The profile from the outside, the general outside surface
10 was characteristic of a mixture. The major component of that
11 mixture or the person who can be associated as contributing
12 the most DNA to that mixture was consistent with Kathy Mock.

13 Q Would you -- you used a term called mixture that I don't
14 think we've heard before. Would you tell the ladies and
15 gentlemen of the Jury what a mixture is?

16 A A mixture is DNA coming from more than one person in a
17 profile.

18 Q And then you said the -- the other person or contributor
19 in the mixture was -- could not -- was consistent with Melvin
20 Griesbauer; he could not be excluded. I'm sorry. Would you
21 tell us about those findings?

22 A Melvin Griesbauer could not be eliminated as being a
23 contributor to the minor component of that mixture.

24 Q And what's the distinction between a major and minor
25 contributor when you define the term "mixture"?

1 A When dealing with mixtures, if we have certain
2 characteristics of the profile where it is demonstrated that
3 more DNA is coming from one person over another person,
4 sometimes we can assign what we call a major component. It's
5 also known as the major contributor, who contributed the more
6 or most DNA to a sample, or if we're dealing with a minor
7 component, who contributed lesser DNA to that mixture.
8 Sometimes we have mixtures where we have equal contribution
9 from both, generally referred to as a one-to-one mixture, and
10 we can't assign a major and minor, but whenever more DNA is
11 present, sometimes we can assign a major component, and that
12 was done in this case.

13 Q Now, moving on to the next, next items you examined, was
14 that the gloves in Government's Exhibit 24F?

15 A Yes.

16 Q Would you tell the ladies and gentlemen of the Jury what
17 you did to attempt to develop a DNA profile on the -- on the
18 rubber gloves, Government's 24F?

19 A There were two gloves in this case. I attempted two DNA
20 samples per glove. I attempted on what was considered to be
21 the apparent inside surface of the gloves for DNA. Glove #1,
22 I chose the inside and outside palm areas for one sample and
23 then the apparent inside finger surface area, and then I did
24 the same for Glove #2.

25 Q Thank you. And what were the results of your attempt to

1 develop profiles on the gloves?

2 A With both gloves, on the inside and outside palm areas, I
3 did not receive enough DNA to attempt profiling, so there was
4 an insufficient amount of DNA recovered from those areas on
5 both gloves.

6 Q And then were there areas on the gloves where you were
7 able to develop any DNA profile?

8 A Yes.

9 Q Would you tell us about that?

10 A The apparent inside finger areas of both gloves yielded
11 profiles that I could use for comparison purposes.

12 Q And in terms of -- of -- let's talk about what we'll
13 refer to as Glove 1 and Glove 2. In terms of Glove 1, what,
14 if anything, were the results of your analysis?

15 A I was able to develop a DNA profile. Would you like me
16 to go ahead and talk about --

17 Q Please.

18 A -- comparisons?

19 Q Yes, sir.

20 A The profile is consistent with the profile from Kathy
21 Mock. There is additional DNA showing up at one of the 16
22 locations that I tested for, and that is not enough
23 information for me to go any further with. It's just too
24 insufficient for me to ever be able to include or exclude
25 somebody from being a contributor to, and I'm not even sure

1 that it could be DNA. It could very well be an artifact of
2 the profiling process. The DNA that I'm receiving is in
3 certain positions on -- at that location where it could be an
4 artifact or it could be additional DNA. Either way, it's
5 insufficient for me to do anything with.

6 Q What does the term "artifact" mean?

7 A An artifact in the instance that I'm describing could be
8 DNA that is being developed as part of the typing process.
9 It's not actually generated from the -- it's not actually part
10 of the DNA profile. It's a phenomenon of the process that
11 occurs. It's recognized, and we deal with it in the
12 laboratory, and in this instance, it's falling into positions
13 where it could actually be an artifact rather than DNA.
14 Either way, it's insufficient.

15 Q Thank you. How would you characterize the strength of
16 the amount of DNA for which you could develop the profile that
17 matched Katherine Mock's profile on the inside of Glove 1,
18 inside finger area of Glove 1?

19 A I had enough DNA to meet the minimum criteria to develop
20 a DNA profile.

21 Q Thank you. Now, with regard to -- go up to what were the
22 results of your attempts to develop a profile on the inside
23 finger area of Glove 2.

24 A I was able to also develop a DNA profile from that area
25 as well.

1 Q Okay. What type of profile was that, and what were the
2 results of your comparisons?

3 A The profile is characteristic of a mixture. The major
4 component of that mixture is consistent with Kathy Mock.
5 There is still DNA that is unaccounted for in that mixture.

6 Q And is that -- in terms of the mixture and the DNA, was
7 Ms. Mock the major contributor? Was hers the major
8 contributor in the profiles?

9 A The major component was consistent with Kathy Mock.

10 Q Thank you. And other terms -- how would you define the
11 other amount of DNA that you were unable to identify?

12 A The other amount is consistent with being minor and
13 partial.

14 Q Thank you. Now, did you have an opportunity to analyze a
15 third piece of evidence that I have not put before you?

16 A Yes.

17 Q And what were the -- what was that third piece of
18 evidence?

19 A Are you talking about another glove?

20 Q Yes, sir.

21 A It was a glove.

22 Q Okay. And that was seized from -- seized from a separate
23 location. Were you able to develop -- a separate location at
24 17631 Penny Royal. Were you able to develop a profile on that
25 glove?

1 A The glove that I tested, I was not able to develop a DNA
2 profile from either of the locations that I tested, and the
3 locations were the same that I tested on these two other
4 gloves.

5 Q Okay. And there, there's just an insufficient amount of
6 DNA material to develop any profile at all?

7 A There was an insufficient amount of starting material for
8 developing a profile.

9 Q Okay. Now, in terms of the reference standards, you also
10 had a reference standard from a store clerk and from Jared
11 Young, is that correct?

12 A Yes.

13 Q Okay. Now, did you have occasion to perform a
14 statistical analysis relative to your DNA findings?

15 A Yes.

16 Q Why do you do a statistical analysis?

17 A Statistical analyses in DNA can be performed to provide
18 an indication for the meaning to a match or how much weight
19 can be added to the meaning of a match. It is such as if you
20 have, say, a one-to-three, one out of every three people could
21 be consistent with being in that profile, that's not a very
22 significant number. One out of three is not very rare. One
23 in quintillion might be considered pretty rare. So it just is
24 a way for us to describe and give a weight to the meaning
25 whenever we make an association between an individual and a

1 crime scene sample.

2 Q And does that assist you to determine the probability
3 that someone else randomly selected would have the same, the
4 same profile as your sample, your known sample, and the
5 profile developed from the crime scene evidence?

6 A It would be the number of people I would expect in the
7 population to have that profile if everyone were tested.

8 Q And what were the results of your statistical analysis in
9 this case?

10 A For the -- what I considered to be the single source
11 profile or coming from one contributor only on the inside face
12 mask area, the profile from that is -- has an approximate
13 frequency of one in 107.3 quadrillion people tested in the
14 Caucasian population and one in 480.8 quadrillion people
15 tested in the black population.

16 Q So I'm sorry. The profile developed from Ms. Mock
17 developed on which areas of the ski mask?

18 A The inside face area of the ski mask. That can also be
19 applied to the major component from the outside general
20 surface of the ski mask as well as the profile from the inside
21 of Glove 1 as well as the major component from the profile
22 from the inside of Glove 2.

23 Q And what was that number?

24 A Approximately one in 107.3 quadrillion in the Caucasian
25 population and one in 480.8 quadrillion in the black

1 population.

2 Q How many zeros is that on the end of 1.07.3 or 107.3?

3 A Fourteen.

4 Q In terms of the mixtures, were you surprised or are you
5 surprised when you develop mixtures on materials that you
6 test?

7 A Particularly not when dealing with touch DNA type
8 samples, where skin cells are the target for our profiles.

9 Q And why is that?

10 A Due to the transient nature of DNA and how DNA can be
11 transferred from one person to the next, receiving DNA in
12 low-level components is not uncommon, especially when dealing
13 with clothing items, knowing that people can share clothes,
14 other people can touch people's clothing, or in the case of
15 gloves or something like that, somebody could shake hands with
16 somebody and then put on a pair of gloves. It's just random.

17 Q It's possible for somebody to touch another item that
18 somebody has touched yet -- yet -- or touch an item that
19 another person has touched and have that person's DNA or the
20 second person's DNA on their hands?

21 A And it's not uncommon for that to show up in a low-level
22 capacity, such as in a minor component where it's partial and
23 minor. It's not uncommon for that to happen in a mixture.

24 Q Thank you. Now, in terms of evidence developed on the
25 ski mask, you said Melvin Griesbauer's profile could not be

1 eliminated as being the minor contributor on the exterior of
2 the ski mask, is that correct?

3 A He cannot be eliminated as a contributor to the minor
4 component.

5 Q Okay. As a contributor to the minor component. And
6 based on your training and experience, are you aware of
7 certain scenarios in which blood -- blood can splatter when
8 somebody is shot?

9 A Sure.

10 Q Is that something that is at least a factor in analyses
11 conducted in crime laboratories?

12 A It could be, yes.

13 MR. REILLY: Thank you.

14 If I may have just a moment, Your Honor?

15 THE COURT: Sure.

16 Q (By Mr. Reilly) One thing I should have asked you -- on
17 the items you tested, I know Mr. Griesbauer could not be
18 excluded from -- from the exterior -- as being a contributor
19 to the minor -- a contributor to the minor mixture on the
20 exterior of the ski mask. Ms. Young was excluded from -- from
21 all these items, is that correct?

22 A That's correct.

23 Q Okay. As was the store clerk, Francis Woods, and Jared
24 Young?

25 A That's correct.

1 MR. REILLY: Thank you. No further questions.

2 THE COURT: Mr. Curran.

3 MR. CURRAN: Thank you, Judge.

4 CROSS-EXAMINATION

5 BY MR. CURRAN:

6 Q I'm going to have some specific questions about the
7 results. Let me know if you need to refer to your notes.
8 You'll probably do that anyway.

9 A Sure.

10 Q Let me start with something the Government just asked
11 you. He posed a hypothetical that the DNA on the ski mask
12 could have potentially come from blood; that's what he just
13 asked you, right?

14 A Potentially.

15 Q Yeah. Did you do any serology tests to see if there was
16 blood?

17 A Blood detection was not performed.

18 Q Pardon?

19 A Blood detection was not performed.

20 Q All right. So you knew the ski mask was related to a
21 homicide, right?

22 A Yes.

23 Q And you -- you've already said a couple of times that
24 some of the DNA -- well, you said that the victim couldn't be
25 excluded as a contributor to some of the DNA you found on what

1 you called the outside of the mask, right?

2 A That's correct.

3 Q All right. But then nobody did any -- and that's
4 possible; there are tests to determine whether blood is on the
5 surface of a material, is that right?

6 A That's correct.

7 Q That's called serology, I think?

8 A It's called stain identification in today's language.

9 Q All right. You know how to do it?

10 A I know how to do that.

11 Q Okay. But nobody asked you to do that?

12 A I decided not to perform stain identification in this
13 case.

14 Q Okay. Now --

15 A Or on this item.

16 Q Pardon?

17 A I decided not to perform it on this particular item.

18 Q Now, next -- I'm going to ask you more about that minor
19 profile in a couple minutes, but I want to ask you a couple
20 other things first. Let me ask you about DNA evidence in
21 general. If you do not -- if you check an item for DNA and
22 don't find anything, that doesn't mean it wasn't touched by
23 someone or came in contact with somebody, is that right?

24 A That's correct.

25 Q Okay. Every time we touch something, you know, we don't

1 always get a result, I guess, if you're checking for DNA,
2 correct?

3 A Whenever somebody touches something, the potential to
4 leave skin cells behind is there, but it may not be at a level
5 where I can detect it with my threshold limit.

6 Q And also, to be sure I'm clear, we are talking about
7 touching, like my putting my hand on the podium, I could
8 potentially be leaving cells, and if there's enough there,
9 you'd be able to type it, is that right?

10 A Yes.

11 Q All right. And then when we talk about mixtures, if
12 somebody else in the courtroom were to put their hand where I
13 put my hand, they could potentially be leaving cells, and then
14 we'd have two people's DNA potentially?

15 A Yes.

16 Q All right. Now, I think you said sometimes, if there's
17 more -- I'm going to use -- if I don't use the right word,
18 tell me. When you type it, if you see a certain profile more
19 quantity, you can link the higher quantity profile to one
20 individual; is that fair to say?

21 A It's usually where we assign what we refer to as a major
22 contributor or a major component.

23 Q Okay. Because that's because you're -- when you say
24 major, you're getting a higher read?

25 A That's correct.

1 Q There's more DNA there, is that right?

2 A That's correct.

3 Q Okay. Because, normally, if you have a mixture, there's
4 nothing about the profile itself that -- that -- I mean, my
5 DNA profile doesn't have my name on it, right?

6 A No.

7 Q Okay. So you have to look at the mixture and determine
8 if there's a major contributor, and if that fits the profile,
9 then -- then -- then you'll do the numbers to see what the
10 likelihood is it's that person, is that right?

11 A Once I assign a major component after I make the
12 comparison and if it happens to be consistent with somebody,
13 then I can do statistical analysis, yes.

14 Q Okay. And the other thing -- you can't put a time on
15 this -- I'm going to use an analogy -- like cause of death, or
16 sometimes a pathologist will give an estimate as to when the
17 person died, you know, based on their observations or
18 training. With DNA, there's no such observation; you cannot
19 say when DNA was -- by your testing, you can't say when DNA
20 was placed on a surface; is that fair to say?

21 A That's correct.

22 Q All right. And also, if the conditions are right, DNA
23 can last on the surface for quite a while, is that right?

24 A Yes.

25 Q Okay. And you also mentioned something about the

1 challenges of -- well, let me ask you this; is there sometimes
2 a challenge with forensic samples because they're not found in
3 optimum conditions?

4 A Yes.

5 Q Okay. You talked about degradation, which I understand
6 to mean over time, I think, heat and maybe the elements can
7 degrade a sample where you don't get an appropriate reading,
8 is that right?

9 A Yes.

10 Q Okay. And then you also have a problem with --
11 contamination is a potential problem -- that somebody else's
12 DNA can actually get mixed up with the sample that you're
13 trying to --

14 A That's correct.

15 Q Okay. And I think that's why people take precautions
16 when they're gathering it; they put on latex gloves so their
17 DNA doesn't get mixed up with the sample they're trying to
18 take, is that right?

19 A That's one reason as well as to protect themselves from
20 the evidence.

21 Q Okay. So what I take that to mean is we're, you know,
22 cells; if I'm doing this, am I shedding cells right now?

23 A Yes.

24 Q Okay. So I'm potentially dropping DNA, right?

25 A Yes.

1 Q But it doesn't mean you're going to get a result if you
2 swab this?

3 A If I were to swab that, I wouldn't expect a result.

4 Q Okay. All right. Now I'm going to talk to you about --
5 let's talk about the gloves for a second. You referred
6 that -- you said that you got a result and that you found DNA,
7 Glove 1, on the inside finger; does that sound right?

8 A Yes.

9 Q Now, how did -- you referred to it as the inside finger.
10 How did you determine that that was the inside finger?

11 A I referred to it as the apparent inside finger, and the
12 trace analyst had already previously determined what he
13 considered to be the exterior surface of that glove, and I
14 swabbed the side opposite of his labeling as well as where I
15 labeled.

16 Q All right. Now, the trace analyst determined the outside
17 of the glove; I think that's because he said he found some
18 gunshot residue?

19 A That's correct.

20 Q All right. So since he found gunshot residue on one side
21 of the glove, he made the assumption that's the outside of the
22 glove, right?

23 A I don't know how he made that assumption.

24 Q Well, you said -- you just said you referred to the
25 inside finger of the glove and one of the reasons was the

1 trace analyst just, you know, let you know what he thought the
2 inside and the outside of the glove were.

3 A That's what the trace analyst let me know.

4 Q Okay.

5 A I do not know how he made that distinction.

6 Q Oh, you don't know how he made the determination?

7 A No.

8 Q You didn't ask him?

9 A I just know that it was noted in his notes, and I went
10 from that point forward.

11 Q All right. So there was nothing intrinsic about the
12 glove -- and these are latex gloves, right? They look the
13 same on either side?

14 A Yes.

15 Q Yeah, you wear -- I assume you're well familiar with
16 latex gloves would be my guess?

17 A Yes.

18 Q All right. Okay. And they can be worn either way? I
19 mean it's not like a glove we buy at Kmart or something like
20 that or, you know, the outside and inside may be different
21 fabric or different material, is that right?

22 A They can be worn either way.

23 Q Okay. All right. So on Glove 1, the inside finger, you
24 said that there was a -- you developed Ms. Mock's profile, is
25 that right?

1 A On the apparent inside finger, the profile was consistent
2 with Kathy Mock.

3 Q All right. And then at one site -- now, when we're
4 talking about the DNA typing, I think you already covered this
5 with the Government; you're not getting a profile of the whole
6 DNA; you're working off of 16 sites, is that right?

7 A That's correct.

8 Q Okay. And at one site, in addition to the major
9 contributor, which was similar to Ms. Mock's, you also said
10 there was some other activity?

11 A At one site, there was additional allelic activity or
12 additional DNA showing up.

13 Q Okay. So that's -- so that -- let me ask you. If that
14 is -- if that was DNA -- and I realize you had an explanation
15 it's possibly what you call an artifact, but if it was DNA,
16 there's no way that came from Ms. Mock, right?

17 A If it's additional DNA, Ms. Mock had already been
18 accounted for as being consistent with the major component.

19 Q Okay. So if that is DNA, that came -- it had to have
20 come from somebody else?

21 A If it is DNA, it had to have come from somebody else.

22 Q All right.

23 A It was not consistent with her.

24 Q Okay. But as you said, since it only shows up at one
25 site -- well, strike that. All right. And that's what you

1 referred to as the inside finger?

2 A The apparent inside finger, yes.

3 Q All right. And then in the apparent inside finger on
4 Glove 2, besides the major contributor -- that profile was the
5 same as Ms. Mock's profile; we had that, right?

6 A The major component was consistent with Kathy Mock.

7 Q And then what you had -- what you referred to as minor
8 components -- first of all, let's say that that -- the minor
9 components are not related to Ms. -- to the Mock profile, is
10 that right?

11 A Yes.

12 Q Okay.

13 A Ms. Mock had already -- if that was her DNA -- had
14 already been accounted for as the major component. There's
15 additional DNA still present.

16 Q And I count that you found -- I'm going to use the word
17 "activity". I'm trying to be broad enough that I don't -- but
18 it looks to me one, two, three, four, five, six, seven, eight,
19 nine, 10 sites, there was other evidence of DNA; is that fair
20 to say?

21 A Yes.

22 Q All right. Now, also, if you look at -- you have that in
23 front of you?

24 A Yes.

25 Q Okay. If you look at D13S317 -- do you have that site?

1 A Yes.

2 Q Now, what I referred to, for lack of a better word,
3 that's the name of that site; that identifies where on the --
4 which chromosome and where on the chromosome you're looking;
5 is that fair to say?

6 A Yes.

7 Q All right. Now, and it's also -- you describe -- when
8 you get the profile, the profile, you assign numbers?

9 A Yes.

10 Q Okay. So I'm going to get into numbers. I want to make
11 it more easy. Under Glove 2, at that site we just talked
12 about, that D13, Ms. Mock is a 12, 13, right?

13 A Yes.

14 Q Okay. And then you found evidence of also an 8, a 9, and
15 11, is that right?

16 A Yes.

17 Q Now, the way I understand it is, at those sites, the most
18 you're going to get is two numbers, is that right, one for
19 each allele?

20 A That's not the most. The minimum would be one. The
21 maximum could be several.

22 Q Well, so if you have an 8 and a 9 and an 11, based on
23 your experience, how many potential contributors is that?

24 A At that particular location --

25 Q Yeah.

1 A -- with your specific scenario --

2 Q Yeah.

3 A -- it's characteristic of at least three.

4 Q Okay. So in addition to Ms. Mock's profile, there's a
5 potential profile with two others or three others? Oh,
6 because you only get one, so it could be three; it could be
7 one 8, one 9, one 11?

8 A That's why I said it's at least -- that whole locus taken
9 into account with the scenario that you just gave is
10 characteristic of at least three.

11 Q Okay. All right. Now, we don't know if it's three or
12 not because you don't have enough information basically,
13 right?

14 A I have information at other loci. When taking the
15 profile into context as a whole, I would say that it's
16 characteristic of at least two.

17 Q Okay. For the -- for the -- those 8, 9, and 11 that we
18 just talked about, right?

19 A I'm referring to the profile as a whole.

20 Q Okay.

21 A If you pull out just that one segment and don't allow me
22 to look at the others, then I would have to say that just that
23 one segment is characteristic of at least three.

24 Q Okay.

25 A But whenever I take the whole profile as a whole, using

1 the context of every piece of information that I'm given, it's
2 characteristic of at least two.

3 Q All right.

4 A I like to make my decisions based on more than just one
5 location. I like to make my decisions based on what's
6 happening to the profile as a whole.

7 Q All right. That -- so what we're saying is you have
8 Ms. Mock as a major contributor; there's other DNA; the other
9 DNA, you know, activity that you found had to come from others
10 and not her, is that right?

11 A That's correct.

12 Q Okay. Now, looking at the whole profile, maybe you can
13 determine whether it was one or two others, but frankly, you
14 don't have enough information to do that, is that right,
15 because you didn't --

16 A Do I have enough information?

17 Q Well, you didn't get a reading at every site?

18 A There's a reading at every site, and I think you may be
19 referring to a minor component reading at every site.

20 Q Okay. All right.

21 A And I have the major contributor present at every site,
22 all of the 16.

23 Q I didn't ask that --

24 A The minor component is what's partial.

25 Q I didn't ask that appropriately. I was talking about the

1 minor contributors. You don't have a read -- we already
2 talked about that; you don't have a reading; you didn't get
3 DNA activity at every site for the minor component?

4 A It doesn't appear that way. If there is a reading, it
5 could actually be the exact same type as the major
6 contributor, and it may be being masked by the major
7 contributor.

8 Q Okay. All right. So you're saying at these sites where
9 you don't have a minor component, it's possible that the other
10 contributors were the same, so it was all absorbed into one
11 reading?

12 A Either that or --

13 Q Okay.

14 A -- the other contributor dropped out.

15 Q All right. Just so I've got it, at this site, inside
16 finger, Glove 2, there is more DNA than -- DNA of more than
17 one person?

18 A Yes.

19 Q Okay. And at most, it's potentially two more people?

20 A All I can say is that it is at least two.

21 Q All right.

22 A No. Let me rephrase that.

23 Q Well, I guess --

24 A The profile is characteristic of at least two people --

25 Q All right.

1 A -- as a whole, not the major contributor plus two others.
2 It's characteristic of being at least two people for this
3 whole entire profile.

4 Q Okay. Counting the major and the minor?

5 A Yes.

6 Q Okay. All right. Now, you also said that -- oh, now,
7 with regard -- I want to move into the ski mask. With regard
8 to the ski mask, you -- you talked about inside face, and you
9 also referred to outer surface. How did you make that
10 determination as to what the inside part of the mask is as
11 opposed to the outside?

12 A Ski masks are a little bit easier than gloves. Ski masks
13 actually have a stitching on the inside surface to where you
14 know what the inside versus the outside should be.

15 Q Should be, is that right?

16 A Should be.

17 Q I mean you don't necessarily -- you can wear it either
18 way, is that right?

19 A Sure.

20 Q Okay. And in this case, you didn't have any
21 information -- all right. You solely based inside/outside
22 based on the stitching?

23 A Yes.

24 Q Okay. But it could have been worn inside out for all
25 that you know?

1 A Yes.

2 Q Okay. Now, you said that on the outer surface, again,
3 there was a major contributor and that was -- the profile was
4 the same as Ms. Mock's, right?

5 A The profile from the major contributor is consistent with
6 Kathy Mock.

7 Q All right. Then this is another situation where we have
8 some other activity in terms of, at certain sites, we call
9 minor contributors?

10 A Yes.

11 Q All right. So it's the same situation where more than
12 one person contributed to this sample?

13 A Yes.

14 Q All right. And you also said that you can't exclude
15 Mr. Griesbauer?

16 A That's correct.

17 Q And that's because that his profile at the sites where
18 you have received activity is the same?

19 A There were genetic markers in common between the minor
20 component and Mr. Griesbauer's reference standard where I
21 would expect them to be if he were in that mixture.

22 Q Now, you didn't get a reading at every site with regard
23 to minor contributors on the outer surface, is that right?

24 A Again, I don't know. I have a reading at every site.
25 Where there is not a minor contributor present, it could very

1 well be masked by the major -- the major contributor of the
2 major component.

3 Q All right. So you're saying that -- let's take one of
4 those sites. Let's take Penta E, and, again, that's a name
5 just for the location you're looking on the chromosome,
6 correct?

7 A Yes.

8 Q Okay. All right. Now, with Penta E, ski mask outer
9 surface, you have a 7, is that right?

10 A That's correct.

11 Q And you have that as a major contributor --

12 A Yes.

13 Q -- correct? And that's also the same as what Ms. Mock is
14 at that site; she's a 7?

15 A She contains a 7.

16 Q Yeah. Now, at that same site, Mr. Griesbauer is a 12,
17 15, two numbers, right?

18 A Yes.

19 Q All right. So he's not a 7?

20 A No.

21 Q Okay. So when you say that -- that -- that there could
22 have been a minor contributor of 7 but since she's a 7, it
23 shows up 7, that could potentially exclude Mr. Griesbauer
24 because if someone's a 7 at that site and he's not, he's
25 excluded, right?

1 A When taking that one locus without looking at the rest of
2 the profile, taking that one without the rest of the context,
3 yes, he would be excluded from that locus.

4 Q Well, let me make sure I have this right. You're looking
5 at 16 sites, right?

6 A Yes.

7 Q If there's one difference, if my profile at one site is
8 different than the sample, I'm excluded, is that right?

9 A Not necessarily.

10 Q Well, if it's -- if you just get one reading -- okay,
11 let's just say all we have here is the major contributor
12 profile, right, for the sake of this question --

13 A Okay.

14 Q -- all right, and at one site I'm different than your
15 major contributor profile; you can't include me?

16 A I wouldn't say that that's the case. In this case --

17 Q Well, I'm not -- let me start with the question, and then
18 we can work into this case. I mean at this site we're talking
19 about, if you get a 7 and at that site I'm a 14, 16, I mean
20 that's not the same, right?

21 A That's not the same.

22 Q Okay. So then I would be excluded?

23 A Potentially.

24 Q Potentially?

25 A I said potentially.

1 Q Okay. So you're saying if the numbers are different you
2 can still include me?

3 A Potentially.

4 Q All right. Now I want to stay on the outer surface of
5 the ski mask. Let's talk about the first, the D3S1358. Now,
6 I show that you have for the 14, 16, that's the major
7 contributor and that's what Ms. Mock is at that site, is that
8 right?

9 A That's correct.

10 Q And then you have minor contributors; you have 15, 17,
11 and 18, is that right?

12 A Potentially. It looks like the 14 could also be included
13 in that as well.

14 Q Okay. So, again, is this a situation where if that is
15 DNA, if that major -- well, we know the major, you're saying,
16 is DNA. If these minor readings are DNA, they came from
17 others other than Ms. Mock most likely?

18 A Yes.

19 Q All right. And also, the fact that we have three numbers
20 there, you said, that could potentially be at that site shows
21 a profile of more than one person?

22 A There's potentially four numbers there, and, yes, you are
23 correct.

24 Q Okay. All right. And then if we -- and then
25 Mr. Griesbauer at that site is a 15, 17, right?

1 A Yes.

2 Q So -- but we have 15, 17, 18, is that correct?

3 A Potentially, 14, 15, 17, 18.

4 Q Okay. Now, let me ask you, you can't tell which two of
5 these numbers go with each other, right?

6 A Sometimes we can. Sometimes we can't. In this instance,
7 looking at that one locus, I would not want to make that
8 distinction.

9 Q Okay. All right. So when you say you can't exclude
10 Mr. Griesbauer, what I understand you to mean is you see a 15
11 and 17 in there, he is a 15 and 17, but we don't know whether
12 the contributor was actually a 15, 18, right?

13 A That's one possibility for one contributor.

14 Q Okay. All right. And then maybe another contributor was
15 just a 17 at that point?

16 A That's another possibility for another contributor.

17 Q Okay. All right. So he has a couple of numbers in
18 common, and that's why you say you can't exclude him?

19 A That's correct.

20 Q All right. Now, if we move over to the next one, TH01,
21 you have a 7 and a 9, is that right?

22 A As the minor component?

23 Q I'm sorry. I'm sorry. I'm looking -- yes, as a minor
24 contributor, 7 and 9.

25 A It actually could potentially be 7, 9, 9.3.

1 Q Okay. Well, Ms. Mock is a 9.3, right?

2 A Yes.

3 Q Okay. So the minor contributor, what do you have -- a 7,
4 and then what's the other?

5 A 9 and potentially a 9.3.

6 Q Okay. Now, why do you say potentially? You have the 9.3
7 as a major contributor and also a 9.3 as a minor contributor?

8 A Correct.

9 Q Okay. And that's just based -- I'm going to say amounts,
10 but that's based on quantity or amount of --

11 A It's based on the fact that the 8 and 9.3 appear to go
12 together, and whenever you put those together using relative
13 peak heights, there's a little bit of the 9.3 that's taller
14 than the 8.

15 Q Okay. All right.

16 A So it leads me to believe that there is potentially a 9.3
17 also still remaining there.

18 Q All right. And that's based on your reading it?

19 A That's correct.

20 Q Okay. If I say eyeballing it, is that fair to say?

21 A And running the numbers with it, too.

22 Q Okay. All right. Now, next, if we move over one more to
23 the D21S11, Ms. Mock, the major contributor, is a 31, 31.2,
24 fair to say? That's her profile at that site?

25 A Yes.

1 Q And I'm looking for -- again, I have that the minor
2 contributors are a 27, a 28, and a 29, is that right?

3 A And potentially a 31.

4 Q And potentially a 31. All right. Minor of 31. Now, I'm
5 guessing you know what my question is going to be by now. In
6 terms of the minor contributors, we're talking about -- well,
7 first of all, if we're assuming Ms. Mock is the major
8 contributor, she's certainly not the contributor to these, to
9 the numbers we just read, right, although she has a 31?

10 A In the minor component, yes.

11 Q Yeah, okay. And then, again, Mr. Griesbauer is a 27 and
12 a 29 at that site, right?

13 A That's correct.

14 Q But then you also have another number there; you have a
15 28, is that right?

16 A And potentially a 31.

17 Q And potentially a 31. So, again, he's included because
18 he has numbers in common, but we can't tell -- there's no way
19 to tell by your testing as to which of those two numbers go
20 together?

21 A No.

22 Q Okay.

23 A I wouldn't want to.

24 Q Okay. That makes sense. And, again, I think we've
25 already said this. It's most likely more than one person; if

1 this is DNA, it came from more than one person?

2 A In my opinion, this is DNA and it is coming from more
3 than one person.

4 Q Okay. All right. Now, with -- I'm going to move over to
5 D18. You know what we're talking about?

6 A Yes.

7 Q Okay. All right. Now, you have the major contributor is
8 a 17, 18, which is the same as Ms. Mock's profile, correct?

9 A Yes.

10 Q And then beneath that -- and correct me if my notes are
11 wrong here -- you have a minor of a 16, is that right?

12 A And potentially a 17.

13 Q Potentially a 17. Now, why do you say potentially? Is
14 that because you're not comfortable with the reading that you
15 got where you could call it that?

16 A I see the 17 slightly elevated more than the 18, and the
17 17, 18 look like sister alleles, and whenever you take into
18 account a 70 percent heterozygosity, just me eyeballing this
19 right here, it appears that there would be a little bit of a
20 17 left over.

21 Q Okay. Now, if that's two -- well, again, we sort of have
22 the same -- I guess it's the same issue. If you get two
23 numbers, that could be one person that contributed both
24 numbers, is that right?

25 A Yes.

1 Q Okay. But then it could also be -- you can have one
2 number at that site, right?

3 A For each person in a sample, I would expect one or two
4 peaks from each person.

5 Q Okay. So where we say it's -- you just said it's a 17,
6 18 based on your experience. That could have been two
7 separate contributors, a 17 contributed and a person with an
8 18 at that site contributed?

9 A Taking that into context, that one locus alone,
10 potentially.

11 Q Okay. All right. I'm going to move -- and so I'm going
12 to move -- I'm going to move it along here. D -- at the D5S,
13 again, that's a situation where I see three numbers, 12, 12.2,
14 and 13; is that fair to say?

15 A Say again.

16 Q 12, 12.2, and 13.

17 A There's four numbers there -- 11, 12, 12.2, and 13.

18 Q Okay. All right.

19 A With the major being consistent with being an 11.

20 Q Okay. Yeah, the major -- at that site, that's a
21 situation where at that site Ms. Mock is the same number;
22 she's an 11, 11?

23 A Yes.

24 Q Okay. All right. And then you found other DNA minor
25 contributors, correct?

1 A Yes.

2 Q All right. And same question -- that can be more than
3 one person contributed to -- to that, to the minor sample that
4 you found?

5 A At that location, I'm not sure whether it's more than one
6 person in the minor or not.

7 Q Okay. But it could be at least one -- it's got to be at
8 least one person, right?

9 A At that location --

10 Q Yes.

11 A -- taking everything into account at that one location,
12 it's characteristic of at least two.

13 Q Okay. All right. And then let's -- with regard to the
14 next site, D13, we have a major of 12 and 13, correct?

15 A Yes.

16 Q And then we have 8, 9, and 11?

17 A Yes.

18 Q As a minor?

19 A And a potential 12 with that.

20 Q And a potential 12. All right. The 12 is also in common
21 with the major --

22 A That's correct.

23 Q -- contributor? All right. So you probably know my
24 question by now. Looking at that site, it could be more than
25 one contributor?

1 A Yes.

2 Q All right. And, again, with regard to Mr. Griesbauer, he
3 has two of the numbers in common; he has an 8 and a 12, right?

4 A That's correct.

5 Q And that's another reason why you say you can't exclude
6 him?

7 A That's correct.

8 Q Isn't it fair to say that you just don't have enough
9 information to exclude him? I mean if he's different in a
10 couple sites, because you don't have results from minors at a
11 couple of these sites, he could be excluded, right?

12 A There -- as I stated earlier, there are genetic markers
13 in common between his profile and the minor component here
14 where I would expect them to be if he were in this mixture,
15 taking this entire profile in context, not locus-by-locus, not
16 one locus by itself, taking the entire profile as a whole.

17 Q Okay. But when you analyze it, you look at it
18 locus-by-locus, right? I mean that's how you develop the
19 profiles at each locus, right?

20 A At some point, I look locus-by-locus --

21 Q Okay.

22 A -- but I have to base my decision based on the profile as
23 a whole, not what's going on at one locus and simply ignore
24 the rest of the profile.

25 Q Yeah. Well, I'm not asking you to ignore anything. I'm

1 just asking you for your results. Okay. Now let's talk
2 about -- let's move down to D8S1179. A major contributor, the
3 profiles 9, 10, is that correct?

4 A Yes.

5 Q And, again, that's the same as Ms. Mock at that site, is
6 that right?

7 A Yes.

8 Q Okay. And then minors, I show 11, 12, and 13?

9 A And a potential 9.

10 Q And a potential 9. Okay. Once again -- okay. Now, at
11 that point, Mr. Griesbauer is a 12 and a 13, is that right?

12 A Yes.

13 Q Okay. But as we've just said, your minor contributors,
14 we have -- you have an 11, and Mr. Griesbauer isn't an 11 at
15 that site, is that right?

16 A That's correct.

17 Q Okay. All right. So when you say -- and I think you've
18 already said this; you can't tell by looking at this which two
19 of these numbers are supposed to go together?

20 A I wouldn't want to in the minor component. The major
21 component, I can.

22 Q All right. Okay. That makes -- okay. I understand.
23 All right. Now I just want to make sure what -- what -- all
24 the reference standards you used, well, all the people's DNA
25 who you typed. Now, I'm not sure my list is complete, so let

1 me know. You had -- you certainly had Kathy Mock. You had
2 the buccal swabs from Kathy Mock, and that's how you developed
3 the reference standard for her, is that right?

4 A Yes.

5 Q Okay. Let me ask you, taking the buccal swabs, is there
6 a prescribed way to do it? I mean does somebody have -- is
7 that something that if somebody is not doing it right it can
8 affect your results?

9 A Potentially.

10 Q Okay. What's the proper way to do it, to take a buccal
11 swab?

12 A I educate people to put on a pair of gloves and take the
13 swab and swab the inside of the cheek.

14 Q All right.

15 A And package it properly after that.

16 Q Now, that only took you like a couple seconds to say
17 that. Is that all anyone needs to know; you don't need any
18 more training than that?

19 A If I were to receive a phone call in the laboratory,
20 that's what I would tell an officer over the phone.

21 Q Okay. And you're comfortable with collecting this
22 evidence that way?

23 A As long as he follows that general procedure and wears
24 gloves, yes.

25 Q All right. If I cough -- if one coughs or sneezes, will

1 that expel -- will DNA come out?

2 A I would expect that to, yes.

3 Q All right. So I assume the officer should be also
4 instructed, "If you've got to cough or sneeze or anything like
5 that, don't do it while you're taking a sample"?

6 A That -- yes.

7 Q Okay. But it doesn't sound like you tell them that?

8 A At this day and age, with the amount of education that's
9 out there, I would expect an officer to know not to sneeze on
10 the evidence whenever it pertains to DNA.

11 Q All right. Now, so you've got a reference standard from
12 Ms. Mock. There's a reference standard from Mr. Griesbauer?

13 A Yes.

14 Q All right. A reference for Jared Young?

15 A Yes.

16 Q Okay. Elain Young?

17 A Yes.

18 Q And Ms. Wood, is that --

19 A Ms. Woods, yes.

20 Q Okay. Anybody else?

21 A No.

22 Q Okay. I think I may -- oh, a couple more questions. You
23 mentioned something; you referred to the transient nature of
24 DNA?

25 A Yes.

1 Q All right. And is that you meant that DNA can be
2 transferred sometimes, like if I shake your hand, I can get
3 some of your DNA on my hand?

4 A Potentially.

5 Q Okay. All right. And it can -- it can move from surface
6 to surface potentially?

7 A Potentially.

8 Q Okay. Because once it lands, it's not glued there or
9 anything like that, not --

10 A Depends on whether the stain was wet whenever it's being
11 transferred or dry. With a multitude of scenarios, it can --
12 it can be transferred.

13 Q All right. And we talked about the mask, as to whether
14 you did any tests for the presence of blood. Did you -- did
15 you test the gloves for that, if there were any blood present?

16 A I tested one glove.

17 Q All right. And what did you find?

18 A Blood was not detected.

19 MR. CURRAN: All right. I have nothing further.
20 Thank you.

21 THE COURT: Mr. Gorla.

22 MR. GORLA: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. GORLA:

25 Q Good morning, Mr. Wyckoff.

1 A Good morning.

2 Q I'll be very brief. As I understand it, you compared the
3 known DNA sample that you had from Elain Kay Young to the
4 profiles that you developed from the ski mask, is that
5 correct?

6 A That's correct.

7 Q And you were able to eliminate Ms. Young as a contributor
8 to those profiles on the ski mask, is that correct?

9 A That's correct.

10 Q And you also compared her DNA profile to the DNA that you
11 found on the gloves, is that correct?

12 A That's correct.

13 Q And you also were able to eliminate her as a contributor
14 to those sources as well, is that correct?

15 A Yes.

16 MR. GORLA: That's all I have, Judge. Thank you.

17 THE COURT: Redirect.

18 REDIRECT EXAMINATION

19 BY MR. REILLY:

20 Q In terms of the manner in which the buccal swabs were
21 taken, you received the reference standards we've discussed,
22 correct?

23 A Yes.

24 Q Were you able to develop a DNA profile off of each buccal
25 swab?

1 A Yes.

2 Q So, apparently, they were taken in a manner in which --
3 by which a DNA sample was properly extracted; is that fair to
4 say?

5 A There was a sufficient amount of DNA on each buccal swab.

6 Q You said it was possible to test for stain identification
7 on the ski mask but you didn't do that. Why was that?

8 A In this instance, with the ski mask already having been
9 associated with the crime scene, I was not interested in
10 locating victim's blood at the crime scene. I understood the
11 victim to be bleeding, and finding his blood at the crime
12 scene was not important to me. It was finding an association
13 between somebody unrelated to the scene is where I wanted to
14 focus.

15 Q Mr. Curran mentioned contamination, and just because the
16 word came up, in terms of what happened with your analysis,
17 are there built-in standards for you to detect contamination
18 in the analysis?

19 A In the laboratory, yes.

20 Q Okay. And that's not a concern here, is it? Did you
21 detect --

22 A As far as the laboratory is concerned, I did not detect
23 contamination.

24 Q And who was -- was it Mr. Randle who identified the
25 inside of what he determined to be the inside of the gloves?

1 A He determined what was the exterior, and we assumed -- I
2 assumed the interior from that reference point.

3 Q And had you worked with Mr. Randle for many years?

4 A Yes.

5 Q And you determined what was the inside and the outside of
6 the ski mask based on the stitching, is that correct?

7 A Based on, yes, the stitching.

8 Q And Mr. Curran asked you if the mask could have been
9 inside out or been worn inside out?

10 A Yes.

11 Q And in either event, the DNA profile consistent with
12 Ms. Mock's DNA is on both sides of the mask, is it not?

13 A She is consistent with being the profile from the inside
14 face area and the major component on the general outside
15 surface area.

16 MR. REILLY: Thank you. No further questions.

17 MR. CURRAN: Judge, I just have a couple questions.

18 THE COURT: Uh-huh.

19 RECROSS-EXAMINATION

20 BY MR. CURRAN:

21 Q With regard to whether you typed for blood or not, on
22 direct, the Government gave you a hypothetical that, you know,
23 during -- there's a shooting, that potentially blood could
24 splatter, correct? Do you remember that question?

25 A Yes.

1 Q Okay. But at the time you answered that question, that
2 it was a potential that could happen, the blood could splatter
3 at a shooting, you were aware that you hadn't typed any of
4 this evidence for the presence of blood, correct? I mean you
5 knew you hadn't checked the ski mask or the gloves for blood,
6 correct?

7 A Yes.

8 Q Okay. So at the time you answered the hypothetical yes,
9 you knew you didn't have any evidence whether there was blood
10 on -- you know, any trace amounts of blood on any of these
11 objects, is that correct?

12 A I do not know whether the outside surface was blood or
13 not.

14 Q And let me ask you about -- with regard to the DNA found
15 on this ski mask, I believe you stated both when you were
16 talking to the Government and me that we can leave DNA by
17 touching something, is that correct?

18 A Potentially.

19 Q Okay. So when we talk about wearing the ski mask, you
20 can't say for sure how the DNA was deposited on the ski mask,
21 is that correct?

22 A That's correct.

23 Q Somebody could have had it in their hand?

24 A Potentially.

25 Q Yeah. I guess somebody could have wiped a surface --

1 potentially, I realize -- could have wiped a surface that had
2 somebody else's DNA on it already, is that right?

3 A Potentially.

4 Q Because it can be transferred?

5 A Potentially.

6 Q Okay. So when we talk about wearing, we don't know if
7 the DNA was transferred by somebody wearing it or not, right?

8 A I do not know.

9 MR. CURRAN: Okay. Thank you.

10 THE COURT: All right. Is this witness excused?

11 MR. GORLA: Yes.

12 MR. REILLY: Yes, Judge.

13 THE COURT: Thank you, sir. You're free to go.

14 MR. DITTMEIER: Judge, may we approach just briefly?

15 THE COURT: Certainly.

16 (A bench conference was held on the record and outside of
17 the hearing of the Jury as follows:)

18 MR. DITTMEIER: Judge, our next witness is an
19 incarcerated person. Now, I think she's outside the door
20 there. They'll -- she's dressed in regular clothes. They're
21 going to bring her in without handcuffs, and an agent is going
22 to escort her in, but I wanted the Court to know that, so I
23 didn't know if you wanted to take a little recess now. I
24 don't have any quarrel with her coming inside the door with
25 the guards, so it don't make any difference to me.

1 THE COURT: Okay.

2 MR. DITTMEIER: And Mr. Gorla wanted to make a
3 record, I think.

4 MR. GORLA: Yeah, Judge. There are some -- there are
5 some problem areas.

6 (The Deputy Clerk conferred with the Court.)

7 MR. GORLA: You want to just take a recess?

8 THE COURT: It doesn't matter to me, I mean, but
9 anyway --

10 MR. GORLA: Anyway, there are some problem areas.
11 This woman who is going to come in and testify, on her 302,
12 when she was talk -- when she spoke with the FBI, she
13 indicated that Kay Young said something to her about murdering
14 her mother.

15 THE COURT: Uh-huh.

16 MR. GORLA: She also mentioned something about
17 telling -- Amanda Bax says that -- according to the report --
18 that Kay Young told her that she had -- apparently, Amanda Bax
19 had a disabled boyfriend and Kay Young is telling her how to
20 give her an overdose of morphine. Now, obviously, those are
21 areas that we cannot go into because, obviously, you know,
22 under Rule 403, the prejudicial value really exceeds the
23 probative effect. Mr. Dittmeier indicated to me he's not
24 going to go into that area.

25 MR. DITTMEIER: And I've instructed the witness.

1 MR. GORLA: And Mr. McGraugh, I'm sure, is looking to
2 get something out of this witness, too, and I assume that he's
3 not going to go into those areas as well.

4 MR. MCGRAUGH: I'm somewhat insulted by that, but,
5 no, I'm not planning on going into either of those areas.

6 THE COURT: All right.

7 MR. GORLA: That's all I have.

8 THE COURT: All right. So you want to take a recess?

9 MR. DITTMEIER: We don't have to. It's whatever fits
10 into the Court's schedule.

11 MR. GORLA: Whatever you want to do, Judge.

12 (The Court conferred with the Deputy Clerk and the Deputy
13 Marshal.)

14 THE COURT: So we won't take a recess.

15 MR. GORLA: Thanks, Judge.

16 THE COURT: All right.

17 (The following proceedings were held within the hearing
18 of the Jury.)

19 THE COURT: Proceed.

20 **AMANDA BAX,**

21 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
22 FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. DITTMEIER:

25 Q Would you state your name for the Jury, please?

1 A Amanda Bax.

2 Q Ms. Bax, are you presently incarcerated?

3 A Yes, sir.

4 Q And what are you incarcerated for right now?

5 A Bad check charges.

6 Q And have you previously been convicted of felonies?

7 A Yes.

8 Q And would you tell the Jury how many felony convictions
9 you have?

10 A Six.

11 Q Now, do you know the Defendant Kay Young?

12 A Yes, sir.

13 Q Okay. And how did you come to meet Kay Young?

14 A I was a roommate with her in St. Charles County Jail.

15 Q So the two of you were incarcerated together?

16 A Yes, sir.

17 Q Was that back in June of 2010?

18 A Yes, sir.

19 Q Okay. And you said you were cellmates. Who was in the
20 cell first?

21 A She was.

22 Q And then you were brought in as a cellmate to her?

23 A Yes, sir.

24 Q Okay. And when you first came into the cell, did you
25 start arranging the cell for yourself or do anything of that

1 nature?

2 A Yes, sir. I hung pictures of bulldogs up beside my bed.

3 Q Okay. And did that strike up a conversation between you
4 and Mrs. Young?

5 A Yes, sir.

6 Q And what did Ms. Young tell you?

7 A That she had a farm that she raised bulldogs on.

8 Q Okay. And did she give you anything?

9 A A business card that had an aerial view of the farm on
10 it.

11 Q Of the farm?

12 A Yes.

13 Q Okay. Now, once you had struck up your conversation with
14 her and started talking to her, was there anything about her
15 that made you take notice?

16 A She had on a black bracelet, which in St. Charles County
17 means you're a federal inmate.

18 Q Okay. And did you make inquiry about that?

19 A Yes.

20 Q And what'd you ask her?

21 A What the charge was, what she was charged with.

22 Q And what did she tell you she was charged with?

23 A A federal murder.

24 Q Okay. Did you have any response to that?

25 A Yeah. I said, "What'd you do -- kill the President?"

1 Q And what'd she say?

2 A She said, "No. I shot my husband."

3 Q Okay. Now, did she give you any more details than that
4 about the specific homicide?

5 A No.

6 Q Did you at any time discuss with her why she shot her
7 husband?

8 A Yes.

9 Q Okay. And what did she tell you the reason she shot him
10 was?

11 A Well, because she was getting ready to lose her farm --

12 Q Okay.

13 A -- and she had a -- around a million-dollar life
14 insurance policy against her husband.

15 Q Okay. And the million-dollar life insurance would go to
16 paying off the mortgage on the farm?

17 A Yes, sir.

18 Q Okay. Did she talk to you at all about how long she'd
19 had the farm or anything of that nature?

20 A She said it'd been in her family for years and years.

21 Q Okay. Did she say anything specific to impress on you
22 how important the farm was to her?

23 A She said she'd rather lose her husband than lose that
24 farm.

25 Q Did you have any conversation concerning any other person

1 who may have been involved with her?

2 A Kathy Mock.

3 Q What did she tell you about Kathy Mock?

4 A She said that she was trying to get her to find somebody
5 to commit the murder for her and that she was going to end up
6 being the fall guy for her.

7 Q Now, Kay Young said that?

8 A Yes.

9 Q Kay Young said she had Kathy Mock trying to find
10 somebody?

11 A Yes, sir.

12 Q To do what?

13 A To commit the murder for her.

14 Q Okay. And then she said that Mock would be the fall guy?

15 A Yes, sir.

16 Q Did she give you any idea or say anything about Mock
17 having any kind of involvement with her husband?

18 A She said that she was having an affair with her husband.

19 Q Did she mention any other man around either during the
20 time of the murder or shortly after that she was having any
21 kind of relation with?

22 A Yes. She had --

23 MR. GORLA: Judge, I'm going to --

24 A Yes.

25 MR. GORLA: -- object to this, Your Honor, on the

1 basis that I don't believe it's relevant. Can we approach the
2 sidebar?

3 THE COURT: Okay.

4 (A bench conference was held on the record and outside of
5 the hearing of the Jury as follows:)

6 THE COURT: Can you hear me, Gayle?

7 COURT REPORTER: Yes.

8 MR. GORLA: Okay. Judge, I would object to this.
9 I've got an idea that wherever Mr. Dittmeier is going, he's
10 going to ask her, I believe, if Kay Young told her about a
11 relationship that she developed with someone after the murder,
12 and I mean I don't see how that has anything to do with the
13 homicide other than, basically, again, it's going to go to her
14 bad character and they're going to sully up her bad character
15 and then basically put it out there to argue that she's a bad
16 person and, therefore, you know, she did this. It's
17 propensity evidence, and it shouldn't -- it shouldn't come in,
18 and he shouldn't be allowed to go into that at this point
19 because there's certainly been no testimony from anybody as to
20 what this is about. You know, if somehow this person has
21 already appeared and then they've already tied it up, it's
22 different, but we don't know if they're going to be able to
23 tie it up, and we don't think that they can, and if you let
24 the cat out of the bag now, it's too late later on if you
25 decide that this particular person's testimony isn't relevant.

1 It shouldn't come in.

2 MR. DITTMEIER: The person he's talking about is
3 going to testify in the case. He'll be two or three witnesses
4 down the road, and basically what this testimony is going to
5 be is that he was an older gentleman from Iowa or Illinois,
6 and at the time of the murder or shortly after, she took up
7 with him, and she thought she could get some money from him,
8 and she subsequently had him put her on his life insurance
9 policy. It will go to the immediacy that she took up with
10 somebody else. It goes to her financial problems at the time,
11 which were motive for the murder, and she got on this
12 gentleman's life insurance policy, which is going to indicate
13 how close she was to him. He's going to testify to all of
14 that, including some more, but it gives this witness
15 credibility that she in fact talked to Young, it gives him
16 credibility that Young is relating the same thing because I'm
17 sure this gentleman is going to be cross-examined as to
18 whether that's true or not, and this is coming from Young. So
19 it's intrinsic evidence. It goes right to her financial
20 problems and her need for the money and the lack of mourning
21 and how quickly she took up with somebody else.

22 MR. GORLA: Judge, the definition of intrinsic
23 evidence is it's evidence that goes to prove the actual crime
24 that the person is charged with. The crime is already done.
25 The crime has already occurred. You know, you're talking

1 about something that happened after the fact. It just doesn't
2 have anything to do -- to prove what happened on March 23rd of
3 2006. It's totally unrelated. The fact that after
4 Mr. Griesbauer's death that she develops a relationship with
5 someone else doesn't have anything to do with whether or not
6 she had anything to do with killing him.

7 THE COURT: You got a fight in this?

8 MR. MCGRAUGH: I really don't have a dog in this
9 fight.

10 THE COURT: This is a thin line, Mr. Dittmeier. This
11 is a thin line under the circumstances. This is a thin line
12 under the circumstances. I -- I think if you're going to get
13 into this with this witness -- Bax is her name?

14 MR. DITTMEIER: Yes, sir.

15 THE COURT: It will need to be developed a little
16 more, so as of now I'm going to sustain the objection.

17 MR. DITTMEIER: Okay. That's fine.

18 (The following proceedings were held within the hearing
19 of the Jury.)

20 THE COURT: Proceed.

21 MR. DITTMEIER: Okay. I have no further questions of
22 this witness, Judge.

23 THE COURT: Cross.

24

25

1 CROSS-EXAMINATION

2 BY MR. MCGRAUGH:

3 Q Good morning, Ms. Bax.

4 A Good morning.

5 Q My name is Chris McGraugh. We've actually met before --

6 A Yes.

7 Q -- and it was when you were at the St. Louis County Jail?

8 A Yes.

9 Q And you met with myself and my investigator, Ronald
10 Davis. Do you remember that?

11 A Yes.

12 Q And it was like around June of 2011; does that sound
13 about right?

14 A Yeah.

15 Q And we discussed most of what you just testified to, is
16 that correct?

17 A Yes.

18 Q Yeah. You had -- you had told us that the conversation
19 with -- with -- well, first, you said that you were sort of a
20 likeable inmate and people talked to you all the time, is that
21 right?

22 A They do.

23 Q Okay. And warm up to you?

24 A Yes.

25 Q Okay. And you told me that -- that -- we asked you what

1 Kay Young had told you, and Kay had told you that -- you had
2 asked, "What makes it a federal murder?" I guess that was
3 right, and you were sort of kidding, "Did you kill the
4 President?" or something like that, is that right?

5 A Yeah.

6 Q And that prompted her response that "I shot her -- shot
7 my husband"?

8 A Yes.

9 Q Okay. And she told you why she shot her husband was
10 to -- to collect insurance to -- so she could get out of debt
11 with her farm?

12 A Yes, sir.

13 Q And then we -- we talked about, well, what did she say
14 about Kathy Mock --

15 A Uh-huh.

16 Q -- because that's really what we were interested in --

17 A Yes.

18 Q -- because we represented Kathy, and you told us that --
19 that Kay told you that Kathy Mock was the fall guy?

20 A Yes.

21 Q Okay. Now, this is something I don't think we talked
22 about but I know that you talked to the Government about. She
23 also told you that on the -- let me make sure I get this
24 right.

25 A Okay.

1 Q She told you that Jared, her son, was at the scene of the
2 homicide on that night?

3 A She talked about her son.

4 Q All right. And did she tell you that -- that her son
5 Jared was at the scene on the night of the murder?

6 A I don't think that was a specific. She said that he --
7 it might have been the night.

8 Q Okay. And when we asked you about -- this will be my
9 last question. We asked you was that everything that Kay
10 Young had talked about with -- with you about Kathy Mock, and
11 you said, yeah, it was just that she was supposed to be the
12 fall guy, is that right, when you and I talked?

13 A Yes, whenever you and I talked.

14 MR. MCGRAUGH: All right. That's all I have. Thank
15 you.

16 THE WITNESS: Thank you.

17 MR. GORLA: Thank you, Judge.

18 THE COURT: Mr. Gorla.

19 CROSS-EXAMINATION

20 BY MR. GORLA:

21 Q Good morning, Ms. Bax.

22 A Good morning.

23 Q Ms. Bax, you've -- you're known by other names as well,
24 is that correct?

25 A Yes.

1 Q Okay. You've -- you're also known as Amanda D. Bowers,
2 is that true?

3 A Bowers, yes.

4 Q Okay. Amanda Dawn Bowers, is that right?

5 A Yes.

6 Q Amanda D. Bax-Bowers? Did you use that name?

7 A Yeah.

8 Q And Amanda Dawn Bay, is that correct?

9 A That -- yeah --

10 Q Did you use that name?

11 A -- that was an alias, yes.

12 Q Okay. You're currently serving, if I understand this
13 right, four sentences for four different felonies in the
14 Missouri Department of Corrections, is that true?

15 A Yes.

16 Q Okay. And two of these sentences arose out of cases in
17 St. Charles County, is that true?

18 A Yes, sir.

19 Q Okay. And both of those were bad check cases, right?

20 A Yes, sir.

21 Q Felony bad check cases, is that true?

22 A Yes, sir.

23 Q That involved passing bad checks in excess of \$500, is
24 that correct?

25 A No. They were written on a closed account. They were

1 under 500.

2 Q Okay. But they were written on a closed account?

3 A Yes.

4 Q Okay. Okay. And you pled guilty to both of those cases,
5 is that true?

6 A Yes, I did.

7 Q And kind of -- and worked out a joint deal on both of
8 those cases, is that true?

9 A I don't understand what you mean.

10 Q Oh, okay. Well, here, in one of the -- in one of the
11 cases, you were sentenced to six years, but the sentence was
12 suspended, and you were placed on five years' probation, is
13 that true?

14 A Yes, I was, yes.

15 Q Okay. And then in the other case, I guess which was
16 pending at the same time in St. Charles --

17 A Uh-huh.

18 Q -- you were sentenced to six years consecutive to the
19 first case, is that correct?

20 A Yes, sir.

21 Q And then you were -- you served a period of shock
22 probation on that case, is that correct?

23 A I went to treatment, yes.

24 Q You went to treatment, so you went to 120-day treatment
25 program?

1 A Yes, sir.

2 Q Okay. And after that, you were put on probation, is that
3 correct?

4 A Yes, sir.

5 Q Okay. And -- and then there was conditions of probation
6 that were imposed upon you, is that correct?

7 A Yes.

8 Q Okay. And, obviously, some of those conditions were that
9 you -- you know, you obey the law, is that correct?

10 A Yes.

11 Q Okay. All right. And that probation was eventually
12 revoked, is that correct?

13 A Yes, it was.

14 Q Okay. And it was revoked because you picked up some new
15 cases, is that true?

16 A No, I didn't have any new cases.

17 Q Okay. Well, you had a case in St. Louis County, didn't
18 you, and that was another passing a bad check case, is that
19 correct?

20 A That was -- yeah, but that was previous to even getting
21 sentenced on the St. Charles County cases.

22 Q Okay, but you pled guilty to that case on May 25th of
23 2010, is that correct? Does that sound right?

24 A Yeah. Right after I got out of treatment, I pled out on
25 it.

1 Q Okay. Okay. And then you were put on probation on that
2 case, correct?

3 A Yes.

4 Q And you asked for probation, correct?

5 A My attorney asked, yes.

6 Q Okay. Well, you wanted it, too, right?

7 A Well, sure.

8 Q Sure.

9 A Absolutely.

10 Q And, you know, in the course of asking for probation, you
11 know, you're telling the judge, "I want probation; I'm going
12 to do well," is that correct?

13 A Yes.

14 Q And "I'm going to obey the law," is that correct?

15 A Yes.

16 Q And "I'm going to do everything I'm supposed to," is that
17 correct?

18 MR. DITTMEIER: Judge --

19 A Yeah.

20 MR. DITTMEIER: -- I'm going to object to this. He's
21 entitled to go into her convictions, but I don't know that you
22 can go through the entire history and cross-examine her in
23 detail on the cases.

24 THE COURT: I'm kind of at a loss where we're going
25 here, Mr. Gorla.

1 MR. GORLA: Well, Judge, what I'm trying to do is I'm
2 just trying to --

3 THE COURT: Sidebar.

4 (A bench conference was held on the record and outside of
5 the hearing of the Jury as follows:)

6 THE COURT: You lost me.

7 MR. GORLA: Well, I can tell you, I can explain.

8 THE COURT: Okay.

9 MR. GORLA: Judge, what I'm doing is I had -- I am
10 entitled to cross-examine her and show that her probation has
11 been revoked and go through the sequence, and I'm not going
12 into the -- into the facts of the case, and I'm not going to
13 sit here and say, "Tell me what you did," and "This is what
14 you did." All I'm doing is -- and I'm being very quick -- I'm
15 just tracing the fact to show that, you know, she's -- she
16 gets put on probation, or, no, she goes to the penitentiary;
17 she does 120 days; she gets back out. Now she's got another
18 case pending; she gets put on probation in that case; then her
19 probation in that case eventually gets revoked. She pleads to
20 another case, and now she goes back to the penitentiary, and I
21 am entitled to show, okay, that -- not only her prior
22 convictions but that she kept being placed on probation and
23 her probation kept being revoked, and that's what I'm doing,
24 so . . .

25 MR. DITTMEIER: Judge, I just think it was going

1 beyond that as to what she was telling people and that sort of
2 thing and what her lawyer was telling her. I mean she's got
3 six felony convictions. She's under a sentence now of 12
4 years. She's got two of them running consecutive. I just --
5 and, clearly, she said initially that her probation was
6 revoked, so I mean I -- I think it's there.

7 MR. GORLA: I still think, Judge, I'm able to go
8 through the sequence at least, and again, I'm not going to go
9 into anymore about, you know, "You asked the judge for
10 probation, you got probation," but I think I'm still entitled
11 to go through the sequence and to show the number of cases
12 that she pled to and that she kept getting probation and she
13 kept coming back and doing the same stuff.

14 THE COURT: Which is relevant to what?

15 MR. GORLA: Which is relevant to her credibility
16 because she's under oath when she -- when she -- when she gets
17 sentenced, when she pleads guilty to the court. You know
18 that.

19 THE COURT: Yeah. Okay.

20 MR. GORLA: Okay.

21 THE COURT: So we already know that she's got six
22 prior convictions.

23 MR. GORLA: Right.

24 THE COURT: She either pleaded guilty or was
25 convicted, okay.

1 MR. GORLA: Right.

2 THE COURT: Some of them, she got probation on, which
3 means what? The issue on her credibility is whether or not
4 she has convictions and the number of convictions that she may
5 have and to what extent a jury might tend to believe or
6 disbelieve her testimony in light of her previous convictions.
7 Whether she's been on -- whether she's been on probation two,
8 three, four, or five times is not an issue going to
9 credibility, I don't think. It's an issue going to ability to
10 adhere to the rules of probation. Clearly --

11 MR. GORLA: Which means -- there's the answer.

12 THE COURT: But clearly, since she has difficulty
13 adhering to the general concept of being a law abiding citizen
14 to begin with, i.e., she has six convictions, then it's not
15 beyond the realm to believe that she may have some difficulty
16 adhering to the conditions of probation, which are the same
17 conditions that exist prior to picking up the charge.

18 Don't commit crimes. Don't hang around people that
19 are committing crimes. Don't do drugs. Keep your nose clean.
20 Get a job.

21 You know --

22 MR. GORLA: I think *Davis versus Alaska* lets me win
23 in this, Judge, and again, it'd be different if I'm going to
24 hammer it, and I'm not going to hammer it. I'm close to the
25 end, and here's what I'm going to do. I'm not going to bring

1 up anything else about, "You know, you asked the judge," but
2 I'm just going to go into her last prior conviction, and I can
3 ask her about that, what it was for and when it was.

4 THE COURT: Go ahead.

5 MR. GORLA: And that's pretty much the extent.

6 THE COURT: And you're not going to ask her what her
7 lawyer asked the judge or what she wanted the judge to do?

8 MR. GORLA: I'm not going to do that.

9 THE COURT: And you're just going to -- okay.

10 MR. GORLA: I'm just going to go through and say,
11 "You plead guilty to this, and you got -- and you were on
12 probation. You pled guilty to this, and you eventually got
13 revoked, and you're in the penitentiary," period.

14 THE COURT: Okay. We can do that.

15 MR. GORLA: Okay. That's all I want to do. Thank
16 you.

17 MS. HERNDON: We've got to make sure we follow the
18 law here, Judge.

19 THE COURT: You're correct.

20 (The following proceedings were held within the hearing
21 of the Jury.)

22 THE COURT: Proceed.

23 MR. GORLA: Okay. Thank you, Judge. Let me find my
24 place here.

25 Q (By Mr. Gorla) Okay. Ms. Bax, one of the other cases

1 that you're currently serving a sentence for is a felony case
2 that came out of Jefferson County, is that correct?

3 A Yes, it was.

4 Q Okay. And that was a -- that was a stealing case, is
5 that correct?

6 A Stealing by deceit.

7 Q Stealing by deceit?

8 A Uh-huh.

9 Q Okay. And you were sentenced to five years in the
10 Department of Corrections on that case, is that correct?

11 A Yes.

12 Q Okay. All right. So what you're doing now is you're
13 doing a total of what -- 12 years, is that correct?

14 A Yes, it is.

15 Q Okay. So you're doing six and six on the St. Charles,
16 but one of those sentences runs consecutive, is that correct?

17 A The sixes run consecutive to each other, yes.

18 Q Okay. And then the other -- the other two sentences, the
19 seven-year sentence out of St. Louis County and the five-year
20 sentence out of Jeff County, they're running concurrent?

21 A Yes, sir.

22 Q Okay. Do you currently have an out date?

23 A No, I do not.

24 Q Okay. And, obviously, at one point, at some point,
25 you're going to come in front of the Parole Board, is that

1 correct?

2 A Yes, sir.

3 Q Okay. And I assume you want to be released as soon as
4 you can, is that true?

5 A For sure, yes.

6 Q Okay. And do you plan on informing the Parole Board of
7 your testimony in this case?

8 A I'm not sure if they'll be informed or not. It depends
9 on what my attorney -- how he -- he will be there with me.

10 Q Your attorney. And your attorney knows that you're here
11 today testifying?

12 A Yes.

13 Q Okay. And I guess your hope is that, you know, you're
14 going to get some benefit from testifying, is that correct?

15 A I don't know that I can get benefited because I'm on a
16 percent by law; I have to serve a certain amount of time.

17 Q You have to serve how much?

18 A Forty percent.

19 Q Forty percent?

20 A Uh-huh.

21 Q Not 85? Forty percent?

22 A Forty-five -- forty percent.

23 Q Forty percent?

24 A Yes.

25 Q Okay. Now, if I understand your testimony correctly, you

1 were Ms. Young's cellmate --

2 A Yes, I was.

3 Q -- in St. Charles County?

4 A Yes.

5 Q Okay. And Ms. Young kept her paperwork in that cell, is
6 that correct?

7 A I'm sure she did.

8 Q Okay. And there's no secured area inside that cell in
9 which to lock any belongings up, is there?

10 A No.

11 MR. GORLA: Okay. That's all I have, Judge.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. DITTMEIER:

15 Q Just briefly, Ms. Bax, Mr. McGraugh asked you about Kay
16 Young telling you that Kathy Mock was going to be the fall
17 guy --

18 A Yes, sir.

19 Q -- right? But -- and that's what he asked you, but she
20 also said that Kathy Mock did more than just be there; what
21 did she say that she asked Kathy Mock to do?

22 A To find somebody to commit the murder for her.

23 MR. DITTMEIER: Okay. All right. I have no further
24 questions.

25 THE COURT: Mr. McGraugh.

1 MR. MCGRAUGH: Just a couple questions.

2 THE COURT: Sure.

3 RECROSS-EXAMINATION

4 BY MR. MCGRAUGH:

5 Q Ms. Bax, this wasn't the only thing you talked about with
6 Kay Young, is that right? What you testified here, you talked
7 about bulldogs and --

8 A Absolutely.

9 Q Yeah, talked about -- did you talk about your case as
10 well or what you were being locked up on?

11 A I -- she probably knew. I just got out of treatment.

12 Q Okay.

13 A Yeah.

14 Q And nothing about this was particularly uncommon for
15 people to talk about their cases in jail, was it?

16 A Some do. Some don't.

17 Q All right.

18 A It just depends.

19 Q But she was pretty free with that information, wasn't
20 she?

21 A What she talked to me about?

22 Q Yes, ma'am.

23 A Yes, we -- yes.

24 Q And as to the questions that -- whether you receive any
25 benefit from this, when you and I and Mr. Davis talked, I

1 pretty much told you there's nothing I could ever do for
2 you --

3 A Nope.

4 Q -- is that right?

5 A That's right.

6 MR. MCGRAUGH: Okay. That's all the questions I
7 have.

8 THE WITNESS: Yep.

9 MR. GORLA: I have none, Judge.

10 MR. DITTMEIER: No further.

11 THE COURT: Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: Brief recess?

14 MR. DITTMEIER: Yes.

15 THE COURT: All right. Ladies and gentlemen, we'll
16 take this as our morning recess. Again, do not discuss the
17 case amongst yourselves or with anyone else. Do not allow
18 anyone to discuss it within your hearing or presence. Do not
19 form or express any opinions about the case until it is given
20 to you to decide, and do not utilize any social networking
21 sites for any purpose during the course of the recess.

22 Fifteen-minute recess, Carrie.

23 (Court recessed from 11:29 a.m. until 11:58 a.m.)

24 (The following proceedings were held within the hearing
25 and presence of the Jury.)

1 THE COURT: Call your next witness.

2 MR. JUDGE: Dr. Adelstein.

3 THE COURT: Step up, sir, and be sworn in by the
4 clerk.

5 Proceed.

6 **EDWARD ADELSTEIN,**

7 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
8 FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. JUDGE:

11 Q Doctor, tell the jurors who you are.

12 A My name is Edward Adelstein. I'm a pathologist, Chief of
13 the Harry S. Truman VA Hospital, and I am also a Medical
14 Examiner of Boone and Callaway County. In order to achieve
15 this position, I went to medical school. I have a degree of
16 veterinary medicine. I've completed a pathology residency and
17 am Board Certified in clinical and anatomical pathology.

18 Anatomical pathology is the study of tissues. It's doing
19 autopsies. It's determining the cause of death. Clinical
20 pathology involves the other aspects of medicine, such as
21 laboratory tests, such as blood banking and microbiology.

22 I'm here primarily today as a medical examiner. In the
23 world of medical examining, you can reach one other higher
24 degree of, I would say, training, and that is I could have
25 spent an additional year and do a fellowship in forensic

1 pathology, but I am not a forensic pathologist. I'm simply a
2 pathologist with a lot of experience in medical examining.
3 I've probably done over 2,000 autopsies and have been doing
4 this for the last 20 years as a medical examiner. In the
5 medical examiner world, one of the things that we most are
6 asked to do is really review causes of death that are not
7 natural. So if people die from anything other than natural
8 causes, they're referred to us. So if they die of things like
9 suicide or homicide or accidents, then we're asked to review
10 those cases and we're asked as to examine the bodies, carry
11 out an autopsy, and really determine two things, the cause and
12 the manner of death, and that's really the job that we do. We
13 have special training and skills because we see those
14 particular cases more than most, say, ordinary pathologists.

15 Q And you've, obviously, testified in court before?

16 A Yes, I have.

17 Q Many times? All right. Did you conduct an autopsy of a
18 Melvin Griesbauer on March 24th, 2006?

19 A I did.

20 Q All right. And in conjunction -- in conjunction with
21 that, did you arrive within a reasonable degree of medical
22 certainty as to the cause of death of Melvin Griesbauer?

23 A I did. The cause of death was a gunshot wound to his
24 face with -- with enormous destruction of his tissues of his
25 brain, the kind of an injury that actually separated his

1 spinal cord from the rest of his brain. So, in his case,
2 death was pretty much instantaneously. He would have probably
3 not been able to move, and on the most positive side, he
4 probably felt no pain at the time of his death.

5 Q All right. And because of the massive destruction caused
6 by that gunshot wound, he had truly no physical capabilities
7 at the instant that he was shot?

8 A That's correct.

9 Q All right. And so, therefore, he would not have been
10 able to cock a gun, aim a gun, anything like that after his --
11 after he was shot in the face?

12 A It is unlikely that he could have carried out any
13 function after he was struck by this bullet.

14 Q All right. And in conducting your autopsy, were there
15 photographs taken?

16 A Yes, there were extensive photographs taken.

17 Q I'm going to show you three photographs, and they are
18 Government's Exhibits 28, 28A, and 28B. Are those three
19 exhibits that I just mentioned -- were those photographs taken
20 during the course of the -- the autopsy?

21 A That's correct, yes, sir.

22 Q All right. Do they accurately reflect the condition of
23 Melvin Griesbauer's body at the time those photographs were
24 taken and at the time you conducted the autopsy?

25 A They do.

1 MR. JUDGE: All right. And, Judge, I would seek to
2 admit Government's Exhibits 28, 28A, and 28B into evidence.

3 MR. MCGRAUGH: No objection, Your Honor.

4 MR. GORLA: No objection.

5 THE COURT: Admitted.

6 Q (By Mr. Judge) I'm showing you Government's Exhibit 28.
7 Can you tell us what the purpose of that photograph is and
8 what it tells us as it relates to your conclusion that Melvin
9 Griesbauer was shot to death?

10 A Yes. We -- we make an examination of someone almost if
11 they were a patient; that is, we -- we look at their clothes;
12 we look at them externally to see if they have any injuries on
13 them, and in this case, so this is how he was really brought
14 to us, with a -- with a zipper leather jacket and some clothes
15 on, and you can see on the left side of his face that there's
16 a very large stellate wound. This wound is surrounded by some
17 little burnt areas because as a gun goes off, sometimes there
18 are large particles of semi-burnt material that come off and
19 burn the skin. This was a large -- a large gun, a .30-30 with
20 a big bullet, and -- and we also have some abrasions on his
21 face. This is the kind of bullet that when it enters into
22 your body causes excessive damage pretty much and can destroy
23 bones, and even at this point on -- this is on the left side
24 of his face, and just to have the perfect day, revealing that
25 I'm not perfect, at one point in this description, I list this

1 on the right side of his face, but in our drawings and
2 everywhere else, I describe it as the left.

3 Q Okay.

4 A So you can see this wound, and you can see there are no
5 other injuries that you can see. You can see that behind him
6 there's a fair amount of blood because this wound exited from
7 behind, and there was a great deal of blood and actually brain
8 material that was coming from that wound.

9 Q You raised a point. There is an exit wound --

10 A Yes.

11 Q -- to the back of the head; is that fair to say?

12 A Right, right, there's an exit wound.

13 Q All right. That the bullet exited out of, correct?

14 A That's correct, yes, sir.

15 Q I'm going to show you Government's Exhibit 28A.

16 A This is a little higher power of the wound, and a couple
17 things, you can see; you can see that there are some -- the
18 actual wound itself, the stellate wound, which is four by
19 seven centimeters, that's where the bullet entered. You can
20 see some abrasions under it. One of the abrasions actually
21 has a pattern, which I described it, perhaps, as coming from a
22 lag screw, but it probably was from a zipper. There's also
23 some very fine punctate material, which we can see better on
24 the next slide, that's -- you can probably -- can I touch the
25 screen? Can they see?

1 Q Yeah, I think you can. Go ahead.

2 THE COURT: Yeah.

3 A There's these little tiny punctate marks. Oh, wow, this
4 is pretty amazing. And that's what we call stippling, and
5 when we show it on the next slide, stippling is important
6 because one of the things we're asked to do -- we know why he
7 died. We're asked to make some observations as to how close
8 the gun was to him, and the way we look at guns is that if
9 they're pressed tight against your skin, sometimes they just
10 make a little tiny hole and they tear your skin a little bit,
11 and we call those contact or tight contact. If they're back a
12 little further, we call them loose contact and we see soot
13 from the gunpowder itself, but when they're back greater than
14 six to 30 inches, we see this unburnt gunpowder, which looks
15 like little black dots, which we call stippling. So in this
16 gentleman's case, we see stippling. We don't really know
17 without test-firing the gun, but we know probably this gun was
18 held anywhere from six to 30 inches away before he was shot.
19 So this is important to us because the position of the gun
20 sometimes gives us some clues as to what the events were that
21 took place.

22 Q All right. And I'm going to show you Government's
23 Exhibit 28B that may show the stippling a little bit more.

24 A And I think you can see them in these little areas like
25 this. This is really unburnt gunpowder. If you would hold a

1 match to this, it would actually sparkle. So this gives us
2 some idea that this was not a close contact; it was not a
3 tight contact; it was a gun that was held anywhere from six to
4 30 inches away from him when it was fired. Again, they're a
5 little subtle, and in my early days, I used to miss this all
6 the time.

7 Q Could you describe the wound that was to the back of his
8 head, what you described earlier as the exit wound?

9 A Yeah. The exit wound is -- is -- is somewhat linear, and
10 it's -- the path of the bullet, we described as being from
11 front to back, slightly downward, but once the bullet hits the
12 bone, the trajectory is no longer necessarily accurate. That
13 is the bullet can do -- so it went backwards, it veered a
14 little bit toward the middle, and during that process, it
15 actually did enormous destruction to the inferior parts of all
16 the brain on that side, but because this is a large bullet, it
17 actually generates a huge force field, and we really didn't
18 want to show you and it wouldn't be helpful to see that the
19 brain essentially had become macerated and that it was
20 separated from the spinal cord at the cerebellum, the back
21 part of the brain. So at the instant this bullet was fired,
22 he would be unable to move any extremities. He should be
23 unconscious because of the damage to the frontal lobes of his
24 brain, and so he would simply be as he was in the original
25 picture; he would have fallen over and -- and would not be

1 able to move his extremities or move.

2 MR. JUDGE: Doctor, thank you very much.

3 No further questions, Judge.

4 THE COURT: Cross.

5 CROSS-EXAMINATION

6 BY MR. MCGRAUGH:

7 Q Good afternoon, Dr. Adelstein.

8 A Afternoon.

9 Q My name is Chris McGraugh; we know each other?

10 A Right.

11 Q The -- and I represent Kathy Mock. I just have a very
12 brief set of questions for you. From your examination and the
13 autopsy you performed, there are some things that would be
14 difficult to know, and let me confirm those with you. You
15 have no opinion as to where the person that shot the weapon
16 would be at the time the bullet was fired; would that be fair
17 to say?

18 A That's true.

19 Q Okay. And you would have no conclusions or testimony
20 based on your examination of the position of Mr. Griesbauer at
21 the time that he was shot?

22 A That's true. I cannot tell whether he was lying down or
23 standing up.

24 Q Or sitting for that matter, correct?

25 A That's generally true, correct.

1 Q You can't tell whether the person that shot the weapon
2 was right-handed or left-handed?

3 A That's correct I cannot.

4 Q Can't tell how tall that person was?

5 A I cannot.

6 Q Let me just ask you some questions about the stippling,
7 okay?

8 A Yes, sir.

9 Q It's the unburnt tattooing around the wound?

10 A Yes, sir.

11 Q And -- now, the -- I believe you said six to 30 inches?

12 A There's a variation of that, but I think the classic
13 textbooks give it from six to 30 inches.

14 Q And that's just sort of a -- that's not something based
15 on your own studies; that's just sort of been passed down as
16 an accepted distance?

17 A It's in the literature with the concept that to be
18 actually sure you would have to test-fire the gun because
19 every gun and every bullet produces a slightly different fire
20 pattern.

21 Q Okay. So as to this, as to this weapon and this wound,
22 we can't really be sure of the exact distance; would that be
23 fair to say?

24 A That is correct.

25 Q But you could have -- if you have the weapon and the type

1 of ammunition that was used, you could test-fire it and you
2 could give a pretty accurate determination of the distance?

3 A That's correct.

4 Q Okay. One last question for you. Is -- we had talked,
5 you know, some time ago about this case over the phone. Do
6 you recall that?

7 A I do not actually.

8 Q Okay.

9 A Sorry.

10 Q The -- and I had sort of asked you these same questions
11 as to whether you had any opinions on these, on these things.
12 One opinion you did express to me and I had written down was
13 that the person that fired the weapon would have some
14 familiarity with the gun and how they could load another shell
15 into the chamber, is that right?

16 A And that would be reasonable because it's a kind of a gun
17 that you actually have a lever action, so you would need to
18 know something about guns to fire this gun.

19 MR. MCGRAUGH: Okay. That's all I have, Doctor.

20 THE WITNESS: Thank you.

21 MR. GORLA: No questions.

22 THE COURT: Okay. Thank you. Any redirect?

23 MR. JUDGE: No, Judge. Thank you.

24 THE COURT: Thank you, sir. You're free to go.

25 THE WITNESS: Thank you very much.

1 THE COURT: Call your next witness.

2 MR. DITTMEIER: Judge, could we approach just
3 briefly?

4 THE COURT: Uh-huh.

5 (A bench conference was held on the record and outside of
6 the hearing of the Jury as follows:)

7 MR. DITTMEIER: The next witness is going to take
8 some time, okay?

9 THE COURT: All right.

10 MR. DITTMEIER: And he's one of our -- he's our
11 404(b), so we're going to have to read some instructions or
12 whatever to the Jury ahead of time, so I don't know what the
13 Court wants to do, if you want to break now and we can do the
14 instructions and come back or whatever.

15 THE COURT: Yeah. Why don't we go ahead and break
16 for lunch now.

17 MR. GORLA: Okay.

18 THE COURT: And we'll come back and be ready to go.
19 Is this the stuff you're talking about?

20 MS. HERNDON: Is this our copy?

21 MR. REILLY: Yes, Judge, that's your copy. There's a
22 copy for the Court, and there's a proposed limiting
23 instruction on the use of 404(b) limited only to Ms. Young,
24 and then there's the 404(b) instruction itself, and there's an
25 instruction to be given before and then at the close of the

1 evidence.

2 THE COURT: Okay. All right. Yes, sir.

3 MR. DITTMEIER: We're down to about our last six or
4 seven witnesses, so I'd anticipate we will shut down probably
5 tomorrow.

6 THE COURT: Okay.

7 MR. DITTMEIER: If we go good this afternoon, it
8 could be maybe two witnesses tomorrow.

9 THE COURT: Okay. All right. Good enough. All
10 right. Good deal. 1:15?

11 MR. DITTMEIER: That's fine.

12 MR. REILLY: Thank you, Judge.

13 (The following proceedings were held within the hearing
14 of the Jury.)

15 THE COURT: Now, ladies and gentlemen, we'll take our
16 luncheon recess at this time. We'll reconvene from lunch at
17 1:15. During the course of the luncheon recess, do not
18 discuss the case amongst yourselves or with anyone else. Do
19 not allow anyone to discuss it within your hearing or
20 presence, and do not form or express any opinions about the
21 case until it is given to you to decide, and as always, do not
22 utilize any social networking sites over the luncheon recess,
23 and we'll see you back at 1:15.

24 (Court recessed for lunch from 12:14 p.m. until 1:29p.m.)

25 (The following proceedings were held outside the hearing

1 and presence of the Jury.)

2 THE COURT: Mr. G.

3 MR. GORLA: Okay. The first thing, Judge, I'd just
4 like to do is -- from what I understand, they're going to put
5 Norman Newlin on the stand, and he's a 404(b) witness.

6 THE COURT: Uh-huh.

7 MR. GORLA: So the first thing I'd like to do is
8 renew our objection to him, argue that this prior act evidence
9 is irrelevant to any issue in the case other than Ms. Young's
10 character and it's inadmissible as propensity, that the act
11 that he would testify to was neither similar in kind nor
12 reasonably close in time to this charged offense, that the
13 potential unfair prejudice substantially outweighs the
14 probative value of the evidence, and I would argue that it's
15 excludable not only as 404(b) evidence, but it's also
16 excludable under Rule 403 because its probative value is
17 substantially outweighed by unfair prejudice, confusing the
18 issues, misleading the Jury. That's basically it. It's what
19 we talked about before.

20 THE COURT: All right. Mr. Reilly.

21 MR. REILLY: Judge, I'd stand on the Court's previous
22 record, and I would note for the record that I know there were
23 multiple 404(b) witnesses the Government proffered on multiple
24 solicitations and sets of events. One thing with Mr. Newlin,
25 the witness who will -- the Government proposes to present --

1 the evidence he's going to adduce relates to events that were
2 within three or four years of the present offense, so they're
3 very close in time. The Government's pared down in its
4 case-in-chief the amount of 404(b) it intends to present and
5 will present Mr. Newlin's testimony, and other than that, I'd
6 stand on the record previously created.

7 THE COURT: All right. Anything further, Mr. Gorla?

8 MR. GORLA: Yes, Judge. The only other thing -- and
9 I've talked to Mr. Dittmeier about this -- there's certain
10 areas of Mr. Newlin's testimony that would be extremely
11 prejudicial if they came out, and the Court is aware of those
12 areas, and Mr. Dittmeier has indicated to me he's not going to
13 go there, which is fine.

14 THE COURT: That's my understanding as part of our
15 discussion immediately prior to recess for lunch or right
16 after the recess for lunch.

17 MR. GORLA: Correct.

18 THE COURT: Okay. Got anything in this one,
19 Mr. McGraugh?

20 MR. MCGRAUGH: Just -- just as a minor procedural
21 note, Judge.

22 THE COURT: Uh-huh.

23 MR. MCGRAUGH: The Government tendered an instruction
24 before the lunch hour.

25 THE COURT: Yeah.

1 MR. MCGRAUGH: We reviewed it, and we believe that's
2 appropriate, and we would ask the Court to give that
3 instruction prior to the -- prior to the 404(b) evidence being
4 elicited.

5 THE COURT: All right.

6 MR. GORLA: And then, Judge, while we're on
7 instructions --

8 THE COURT: Yes.

9 MR. GORLA: -- the limiting instruction is fine with
10 us. The 404(b) instruction -- at the bottom, Judge, it's a
11 catchall. It says, "You may consider prior acts only on the
12 issue of motive, intent, knowledge, plan, absence of mistake
13 or accident," and all they do is they're just parroting the
14 statute. The law in the Eighth Circuit in *United States*
15 *versus Mothershead* basically says, you know, that you have to
16 use care in framing the language; you have to specify the
17 specific purpose for which it's used; you can't just kind of
18 shotgun the statute, which they did here, and throw everything
19 in the kitchen sink. So the instruction should be given, but
20 the instruction has got to be limited to the specific purpose
21 that the Government is trying to introduce the evidence.

22 THE COURT: Mr. Reilly? Mr. Dittmeier?

23 MR. REILLY: Judge, again, I'd propose that in this
24 case, it's relevant to all those factors. It does -- the
25 evidence that we intend to offer goes to her motive, intent,

1 knowledge, plan, and absence of mistake or accident. If --
2 if -- I'll concede this. We can -- we can take -- right now,
3 we don't know of evidence of absence of mistake or accident.
4 Should -- should the defense start arguing mistake or
5 accident, then, perhaps, perhaps, it could come in, but
6 we'll -- we'll concede the last point, but other than that,
7 Judge, it's relevant to all those factors -- motive, intent,
8 knowledge, plan.

9 THE COURT: Okay. Anything else?

10 MR. REILLY: No, Judge.

11 THE COURT: All right. Consistent with our earlier
12 discussions and the rulings thereon, the objection will be
13 overruled. The evidence will be allowed subject to these
14 instructions being read as cautionary and limiting. Now --
15 yeah. Is this the next witness then that's going to be
16 called?

17 MR. DITTMEIER: Yes, Your Honor.

18 THE COURT: All right.

19 MR. GORLA: I think you're going to read stipulations first,
20 right?

21 MR. REILLY: I have two stipulations to read. Then
22 we'd call the witness.

23 THE COURT: And then you'll call him. Okay. So I
24 propose then to read these two instructions after you've
25 called the witness, and then after the instructions are read,

1 you can begin your inquiry.

2 MR. DITTMEIER: Okay.

3 THE COURT: All right.

4 MR. GORLA: Thank you, Judge.

5 THE COURT: All right. Ready?

6 MR. REILLY: Yes, Judge.

7 THE COURT: All right. Bring them out. Oh.

8 (The following proceedings were held within the hearing
9 and presence of the Jury.)

10 THE COURT: Good afternoon, ladies and gentlemen.

11 JURORS IN UNISON: Good afternoon.

12 THE COURT: Mr. Reilly.

13 MR. REILLY: Thank you, Your Honor. Before the
14 Government calls its next witness, we'd move to introduce two
15 stipulations. The first one is Government's Exhibit #42.

16 THE COURT: Very well.

17 MR. REILLY: Ladies and gentlemen, this stipulation
18 is consistent with the other stipulations you've seen in that
19 it's in the same form. This is a stipulation of facts
20 entitled, "Elain Kay Young, Marriage Dates," and it is
21 Government's Exhibit 42.

22 This stipulation provides as follows:

23 The United States of America and Defendants Katherine
24 A. Mock and Elain Kay Young accept the following facts in this
25 case to be proven.

1 Elain Kay Young was married to Danny Young from
2 February 4th, 1972 to July 7th, 1978.

3 Elain Kay Young was married to Frank Niece from
4 October 31st, 1986 to May 21st, 1996.

5 Elain Kay Young was married to David Crawford from
6 July 4th, 1996 to March 21st, 2003.

7 Elain Kay Young was married to Melvin Griesbauer from
8 September 5th, 2004 to the time of -- to the time of his
9 death.

10 Now, that's Government's Exhibit 42, signed by all
11 the parties.

12 The next stipulation is Government's Exhibits 37,
13 37A, and 37B. Judge, I'd move for the introduction of
14 Government's Exhibit #37.

15 THE COURT: Very well.

16 MR. REILLY: This is a stipulation related to the
17 title history for real estate 17631 Penny Royal Road.

18 The United States of America and Defendants Katherine
19 A. Mock and Elain Kay Young agree and accept the following
20 facts in this case to be proven.

21 One, on January 11th, 1999, Celia Hammons -- well,
22 I'm going to move back for just a moment.

23 The following pertains to information maintained by
24 the Adair County Recorder of Deeds in relation to the property
25 at 17631 Penny Royal Road and/or information related to the

1 refinancing of the property on March 22nd, 2006. Kay
2 Crawford, E. Kay Crawford, E. Kay Young all refer to the same
3 person, Elain Kay Young.

4 Number one, on January 11th, 1999, Celia Hammons, the
5 mother of Keith Hammons, Karen Watt, and Kay Crawford,
6 executed a beneficiary deed to convey the property to Keith
7 Hammons, Karen Watt, and Kay Crawford as tenants in common
8 upon her death.

9 Number two, on March 31st, 2000, Celia Hammons
10 executed a beneficiary deed to convey the property upon her
11 death to Elain Kay Crawford and David Barton Crawford as joint
12 tenants.

13 Number three, on April 6th, 2000, Celia Hammons
14 executed a warranty deed which revoked the beneficiary deed of
15 March 31st, 2000 and conveyed the property to David B.
16 Crawford and Kay Crawford as joint tenants.

17 Number four, Celia Hammons died on or about
18 August 15th, 2000.

19 Sorry.

20 Number five, on March 20th, 2003, David B. Crawford
21 executed a quitclaim deed, releasing any potential interest he
22 may have had in the property entitled to E. Kay Young.

23 On March 21st, 2003, E. Kay Young executed a warranty
24 deed granting the property to Elain Kay Young and Jared L.
25 Young as joint tenants.

1 On May 12th -- number seven, on May 12th, 2003, Elain
2 Kay Young -- Elain Crawford, Elain Kay Young executed a deed
3 of trust granting National City Mortgage Company a deed of
4 trust to secure a \$30,000 loan.

5 On or about June 9th, 2004, Elain Kay Young and Jared
6 Young executed a real estate deed of trust granting Northeast
7 Missouri Bank a security interest in the property not to
8 exceed \$53,000. Thereafter, on June 22nd, 2004, National
9 Mortgage Company executed a release of mortgage releasing its
10 mortgage previously referred to in paragraph seven.

11 Number nine, on March 22nd, 2006, Elain Kay Young and
12 Jared Young, as set forth in Government's Exhibit 37A,
13 executed a quitclaim deed granting Elain Kay Young and Melvin
14 Griesbauer -- Elain Kay Young, Melvin Griesbauer, and Jared
15 Young ownership of the property as joint tenants with the
16 right of survivorship and not as tenants in common.

17 Number ten, on March 22nd, 2006, Elain Kay Young,
18 Melvin Griesbauer, and Jared Young, as set forth in
19 Government's Exhibit 37B, executed a deed of trust granting
20 Home Funds Direct a security interest of \$75,650 to secure a
21 loan of \$75,650. At or near this time, proceeds of
22 approximately \$52,715.77 from this loan were transferred to
23 Northeast Missouri Bank to release the remaining balance from
24 the original \$53,000 mortgage referred to in paragraph eight.

25 And attached to this stipulation that is signed by

1 the parties are Government's Exhibit 37A, which is simply the
2 quitclaim deed of March 22nd of 2006 that is referred to in
3 Government's paragraph nine.

4 Also attached are documents related to the deed of
5 trust referred to in paragraph ten, and this is Government's
6 Exhibit 37B, and it relates to the deed of trust for Home
7 Funds Direct, securing their interest in the property at 17631
8 Penny Royal Road in Novinger, Missouri, in relation to the
9 loan executed on March 22nd, 2006.

10 Thank you, Your Honor.

11 THE COURT: That concludes the stipulations?

12 MR. REILLY: Yes, Judge.

13 THE COURT: Call your next witness.

14 MR. DITTMEIER: Norman Newlin.

15 (Witness sworn.)

16 THE COURT: Ladies and gentlemen, Instruction #A: As
17 you know, there are two Defendants on trial here, Katherine A.
18 Mock and Elain Kay Young. Each Defendant is entitled to have
19 her case decided solely on the evidence which applies to her.
20 Some of the evidence in this case is limited under the Rules
21 of Evidence to one of the Defendants and cannot be considered
22 against the other. You are about to hear evidence in relation
23 to Elain Kay Young's previous offer of United States currency
24 or other things of value for the agreement to murder David
25 Crawford. You must not consider that evidence when you are

1 deciding if the Government has proved beyond a reasonable
2 doubt its case against Defendant Katherine A. Mock.

3 Instruction #B: You are about to hear evidence that
4 the Defendant Elain Kay Young previously offered another
5 person United States currency and other things of value as
6 consideration for the agreement to murder one of her previous
7 husbands, David Crawford. You may consider this evidence only
8 if you unanimously find it is more likely true than not true.
9 This is a lower standard than proof beyond a reasonable doubt.
10 If you find that this evidence is more likely true than not
11 true, you may consider it to help you decide motive, intent,
12 knowledge, or plan. You should give it the weight and value
13 you believe it is entitled to receive. If you find that it is
14 not more likely true than not true, then you shall disregard
15 it. Remember, even if you find that the Defendant may have
16 committed a similar act in the past, this is not evidence that
17 she committed such an act in this case. You may not convict a
18 person simply because you believe she may have committed
19 similar acts in the past. The Defendant is on trial only for
20 the crimes charged, and you may consider the evidence of prior
21 acts only on the issue of motive, intent, knowledge, or plan.

22 Mr. Dittmeier.

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NORMAN LANE NEWLIN,

HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
FOLLOWS:

DIRECT EXAMINATION

BY MR. DITTMEIER:

Q Would you state your name for the Jury, please?

A Norman Lane Newlin.

Q Okay. And where do you live at, Mr. Newlin?

A Novinger, Missouri.

Q Do you know the Defendant in this case, Kay Young?

A Yes, I do.

Q And when did you first meet her?

A It would have been back in 2000 or so.

Q And how did you meet her?

A She was the Superintendent at the Callao School where my
kids went to school.

Q Now let me direct your attention to 2002. Shortly before
the start of the school year, were you looking for a place to
live in Novinger?

A Yes, I was.

Q And did you discuss that with the Defendant Kay Young?

A Yes, I did.

Q And did she suggest anything to you?

A Yes, she did.

Q And tell the Jury what she suggested.

1 A She suggested I move on the farm and help with the farm
2 for the rent, so I moved to a mobile home there.

3 Q So she suggested you move on the farm and you'd pay the
4 rent off by working on the farm?

5 A Yes.

6 Q And did you do that?

7 A Yes, I did.

8 Q Okay. And who did you move on the farm with?

9 A Me and my four kids.

10 Q Okay. Were you separated from your wife at that time?

11 A Yes, we were separated.

12 Q Now, when you first were going to move on the farm, did
13 you have your trailer on the farm yet?

14 A Not at the very beginning but soon.

15 Q Okay. And where did you stay then?

16 A I stayed approximately a week in the house with Kay.

17 Q Okay. And your children were there also?

18 A Yes.

19 Q Okay. And then you moved the trailer onto the farm?

20 A Yes.

21 Q Okay. I want to show you what's been marked and
22 previously admitted into evidence, which is Government's
23 Exhibit 3. Can you see that --

24 A Yes, I can.

25 Q -- photograph there? Can you see where your -- where you

1 moved your trailer, where it was parked at?

2 A Yes.

3 Q And could you touch the screen and show the Jury?

4 A Sure. It was right here, right in this area.

5 Q And there's a concrete pad that's there?

6 A Yes.

7 Q Okay. Now, after you moved on the farm -- you said you
8 were separated from your -- your wife. Do you know whether or
9 not Mrs. Young was having marital problems with her husband?

10 A Yes, she was.

11 Q And she was married at the time?

12 A Yes, she was.

13 Q And tell the Jury, what was his name?

14 A David Crawford.

15 Q And did the two of you discuss your problems?

16 A Yes, we did.

17 Q Okay. Did you discuss her getting a divorce?

18 A Yes.

19 Q Did she discuss with you what one of her primary concerns
20 were as far as getting a divorce?

21 A Yes. She was worried that she would lose her farm
22 because his name was on the farm as well.

23 Q Okay. So David Crawford's name was on her farm?

24 A Yes, that's what she had told me.

25 Q And she was concerned of losing the farm?

1 A Yes.

2 Q Okay. Did she ever discuss with you about having
3 anything done to David Crawford?

4 A Yes.

5 Q Did there ever come a point in time when you took that
6 discussion seriously?

7 A Yes, there was.

8 Q And do you recall when and where that took place?

9 A Yes. It was in the hot tub directly behind the house,
10 and it was the first time that she was very serious about it.

11 Q Okay. And what did she ask you to do to David Crawford?

12 A She had asked me to kill David Crawford; in return, she
13 would kill my ex-wife or soon-to-be --

14 Q Did she tell you how -- okay. Excuse me. Did she tell
15 you how she would kill your ex-wife?

16 A Yes. She said that she would take her horseback riding
17 and hit her in the back of the head with a rock or a club and
18 claim that it was a horseback accident.

19 Q At that time you were in the hot tub and with this
20 conversation, was there ever any money discussed?

21 A Yes, there was.

22 Q And what was that?

23 A Of \$10,000 on top of that.

24 Q So she would kill your wife and give you 10,000?

25 A Yes.

1 Q If you'd kill David Crawford?

2 A Yes.

3 Q Okay. During that discussion, did you ever talk about
4 insurance at all?

5 A Yes. She wanted me to take out insurance on my ex-wife.

6 Q Did she discuss any insurance in connection with David
7 Crawford?

8 A She'd had some insurance on him, but --

9 Q She didn't discuss it with you?

10 A She didn't discuss how much or anything of the sort.

11 Q Now, after that discussion -- and let me direct your
12 attention back to Government's Exhibit 3. On that photograph,
13 can you see where the hot tub is at?

14 A Yes.

15 Q You said you were in a hot tub?

16 A Yes. It was -- well, right there.

17 Q Okay. Right behind the house?

18 A Yes, it was.

19 Q Okay. Now, was there another conversation with her?

20 A Yes, there was.

21 Q And do you know about how long it was after that?

22 A Approximately a week or less.

23 Q Okay. And where did that conversation take place?

24 A That took place in her truck, and it was sitting next to
25 the summer kitchen, which was right there. I'm sorry. I'm

1 unable to touch it in the right spot.

2 Q In the driveway, by this building here?

3 A Yes, it is, right in there.

4 Q Okay. And did that conversation cover the same ground?

5 A Yes, it was, and she was very serious in that
6 conversation.

7 Q And did she say again she'd give the \$10,000?

8 A Yes.

9 Q With pretty much the same terms?

10 A Yes.

11 Q And what did you tell her?

12 A I told her, no, I did not want that in any way, shape, or
13 form.

14 Q Okay. Now, do you know whether or not Elain Young had a
15 stun gun?

16 A Yes.

17 Q Okay. And where did she keep that at?

18 A Most of the time, it was in her truck.

19 Q Okay. And did you ever have occasion to use it?

20 A Yes.

21 Q Now, do you know whether or not she had a rifle?

22 A Yes, she did.

23 Q And do you know what kind of rifle it was?

24 A Yes. It was a Model 94 Winchester. It set at the back
25 door.

1 Q Okay. And that was a lever action?

2 A Yes, it is.

3 Q Okay. Do you know whether or not she knew how to handle
4 that rifle?

5 A Yes.

6 Q Okay. Did you ever see her use the rifle?

7 A Yes, I did.

8 Q And could you tell the Jury about a specific instance?

9 A One afternoon, I was down at the house, and there was
10 some -- a stray dog up in the barn lot, and she was standing
11 at the back of the -- near the yard or garden, and she shot a
12 dog -- one shot -- and killed him.

13 Q Okay. And where do you describe the garden at?

14 A The garden is right here. The dog would have been
15 somewhere right along in this area in there.

16 Q Now, after she asked you about killing David Crawford, at
17 some point shortly after that, did you have occasion to move
18 from there?

19 A Oh, yes.

20 Q And about when did you move; do you recall?

21 A I moved in the spring of 2003.

22 Q Okay. And were you aware that she in fact divorced David
23 Crawford --

24 A Yes.

25 Q -- in March of 2003?

1 A I knew she divorced, yes.

2 Q And nothing happened to David Crawford?

3 A No.

4 Q And Elain Young kept the farm, to your knowledge?

5 A As far as I know, yes.

6 Q As far as you know?

7 A Yes.

8 Q Okay. All right. Now, when did you first hear that
9 Melvin Griesbauer had been killed?

10 A Umm, I'd heard that Friday morning, at the local gas
11 station.

12 Q So that was after the murder?

13 A Yes.

14 Q So that would have been the Friday morning?

15 A Yes, it would have been approximately 9:00.

16 Q Okay. And did you then go in the following Monday and
17 report this knowledge to the Highway Patrol?

18 A Yes, I did.

19 Q And where did you go to talk to the Highway Patrol?

20 A Troop B is in Macon County.

21 Q In Macon?

22 A Yes.

23 Q So you heard about it on Friday morning, and you went in
24 and told the FB -- or the Highway Patrol what you knew on
25 Monday?

1 A Yes.

2 MR. DITTMEIER: Okay. I have no further questions of
3 this witness.

4 THE COURT: Cross, Mr. McGraugh?

5 MR. MCGRAUGH: Briefly, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. MCGRAUGH:

8 Q Mr. Newlin, my name's Chris McGraugh. I represent Kathy
9 Mock. You don't know Kathy Mock nor ever met her?

10 A No, I do not know Mock, Kathy Mock.

11 Q I want to ask you about this incident where the stray dog
12 was shot. Is it your testimony that Kay Young was at the rear
13 of her residence?

14 A Yes. She was near the garden.

15 Q And the animal was somewhere up towards the barn?

16 A Yes, in the barn lot area.

17 Q And would you estimate that to be in excess of 200 yards?

18 A Oh, I would say yes.

19 Q And one shot?

20 A Yes.

21 Q Pretty good with a rifle then?

22 A Yes.

23 MR. MCGRAUGH: Okay. Thank you.

24 THE COURT: Mr. Gorla? Ms. Herndon?

25 MR. GORLA: Judge, may we approach?

1 THE COURT: Sure.

2 (A bench conference was held on the record and outside of
3 the hearing of the Jury as follows:)

4 MR. GORLA: Judge, what I would like to do is -- we
5 talked about this before, so I'm making my offer of proof. I
6 propose to ask him, okay, that in late 2003 through 2004 that
7 he was charged in a criminal case in Macon County Circuit
8 Court, okay, and that he was charged -- it was a felony, okay,
9 and that because it was a felony, there's a range of
10 punishment that's possible -- that goes -- possibility -- to
11 the penitentiary and that Kay Young was a witness against him
12 in that case.

13 As of right now, what you indicated that I could ask
14 him is that he's a -- you know, that -- that he was involved
15 in a court proceeding but I can't say it's a felony, and the
16 reason why I think -- without going into it, exactly what it
17 is, even though I'd like to do that and I know you're not
18 going to let me, but I think the reason why it's important
19 that I'm able to say it's a felony or a criminal case is
20 because that would show how his bias would cause him to
21 testify unfavorably against Ms. Young because it is a felony
22 and because there's so much at stake because if I just say
23 court proceeding, it could be small claims court, it could be,
24 you know, a misdemeanor. Who knows what it could be? It
25 could be a civil case, and then in that case, you know, I'm

1 not -- I'm hamstrung and I can't show that he's biased against
2 Kay Young.

3 So I think in the very least I should be able to ask,
4 you know, that he was charged in a criminal case in Macon
5 County and without going into what the charges were, to say
6 that it was a felony and that it carried a possible range of
7 punishment in the penitentiary and that Kay Young was a
8 witness against you in that case, and then I'll leave it.

9 MR. DITTMER: Judge, I still stand on my previous
10 argument that if she testified against him in a court
11 proceeding, that establishes the bias. The fact that the
12 felony never went anywhere -- I mean I just -- I don't think
13 that that's relevant.

14 THE COURT: Anything else, Mr. Gorla?

15 MR. GORLA: Well, my answer, Judge, is I'm able to
16 show that he's biased and it's important that I show what he's
17 looking at and what the consequences are of the court
18 proceeding and that the consequences are direct to him, which
19 would cause him to slant his testimony against Ms. Young.

20 THE COURT: All right. My ruling is still the same,
21 consistent with our earlier discussion and in our discussion
22 at sidebar now on this issue. I don't see that anything has
23 changed materially to cause me to modify or change my ruling.

24 (The following proceedings were held within the hearing
25 of the Jury.)

1 CROSS-EXAMINATION

2 BY MR. GORLA:

3 Q Good afternoon, Mr. Newlin. When did this conversation
4 take place that you told us about with the hot tub?

5 A It would have been in the spring of 2003.

6 Q Spring of 2003?

7 A Well, I shouldn't say spring. January, sometime in the
8 first part of the year.9 Q In January? So in January, it's normally cold in
10 January, is that correct?

11 A Yes.

12 Q You went in the hot tub in January?

13 A Yes.

14 Q Okay. Now, if I understand this correctly, you went to
15 the police on March 27th, is that correct?

16 A Yes.

17 Q Okay. And you initiated the contact, is that correct?

18 A Yes, I did.

19 Q Okay. And talked to a Sergeant Wilhoit, is that correct?

20 A Yes, I did.

21 Q At Adair County Justice Center, is that correct?

22 A Yes.

23 Q Okay. How long did you live on Ms. Young's property?

24 A Umm, moved in there in the fall -- it would have been
25 just before school started -- and moved out early spring,

1 which March, April, somewhere right along in there.

2 Q You were supposed to stay there for a year, is that
3 correct?

4 A Yes, we had a lease for up to a year.

5 Q But you left early, is that right?

6 A Yes, I did.

7 Q And you were asked to leave early, is that true?

8 A It was a mutual agreement, yes.

9 Q Because you and Ms. Young weren't getting along at that
10 point; is that a fair statement?

11 A Right.

12 Q Now, you testified in front of the Grand Jury, is that
13 correct?

14 A Yes, I did.

15 Q Okay. And you told them that, you know, at the time that
16 you were living there you were separated from your wife, is
17 that true?

18 A Yes.

19 Q And Ms. Young was going through a divorce with David
20 Crawford, is that correct?

21 A Yes.

22 Q And you told the grand jurors, at least for a while, that
23 it was kind of a standing joke, wasn't it, that you would joke
24 about killing each other's spouses?

25 A She talked about it a lot, and I took it as a joke, yes.

1 Q And, basically, you used the words "standing joke" in
2 front of the grand jury, is that true?

3 A Possibility, yes.

4 Q Okay. You were involved in a court proceeding in Macon
5 County Circuit Court late 2003 through 2004, is that true?

6 A Yes.

7 Q Okay. There was a lot at stake in that proceeding, is
8 that true?

9 A Pardon?

10 Q There was a lot at stake in that proceeding, is that
11 true?

12 A Yes, I guess there is, yes.

13 Q Yeah. And it was hotly contested, is that correct, a
14 fair statement?

15 A Possibly, yes.

16 Q Kay Young was a witness against you in that case, is that
17 true?

18 A Yes, she was.

19 Q Now, when you testified in front of the Grand Jury, did
20 you tell them something about at one time coming down from the
21 trailer and that Kay Young had an insurance man at her house?
22 Is that true?

23 A Yes, it is true.

24 Q So -- so tell us about that.

25 A She wanted me to take out a life insurance policy on my

1 ex, and I wanted no part of it.

2 Q So she had a -- if I understand this, she's had -- she
3 has an insurance man there, some guy who works for an
4 insurance company, is that true?

5 A Yes.

6 Q So he's sitting in her house, is that true?

7 A Yes.

8 Q And he's got papers all prepared for you to sign, is that
9 true?

10 A There was some paperwork, yes.

11 Q Okay. What company was the man from?

12 A I have no idea.

13 Q What did the guy look like?

14 A Older gentleman.

15 Q When did this happen?

16 A It was of the evening. It was after dark. I don't know
17 exactly the date.

18 Q Okay. And what did you do?

19 A Umm, I wanted no part of it, absolutely no part of it,
20 did not agree to it in any way, shape, or form.

21 Q Well, what did you do with the -- with the paperwork?

22 A Umm, she handed -- they handed me the paperwork. I did
23 rip it in half. Other than that, I believe I carried it out,
24 but I'm not for sure on that.

25 Q Well, let me ask you this. Do you remember when you

1 talked to Sergeant Wilhoit on March 27th of '06?

2 A Yes.

3 Q And you told him about this completed life insurance
4 application; do you remember that?

5 A I did tell them about --

6 Q Yeah, and, actually, you told them that you still had the
7 application in your possession, is that true?

8 A I thought I had, but I do not have it at this time.

9 Q Well, but my question was you told them that you still
10 had the application, is that correct?

11 A That could very well have been, yes.

12 Q Okay. And then later on, on October 22nd, you also
13 talked to FBI Agent Keith Kohne, is that correct?

14 A Yes.

15 Q And you talked to him, I guess, right before your Grand
16 Jury testimony, is that true?

17 A Yes.

18 Q In St. Louis?

19 A Yes.

20 Q And he asked you initially, right before you started,
21 if -- he asked you about that form, is that correct?

22 A Umm, possibly, yes.

23 Q And you told him you couldn't find it, is that correct?

24 A Yes.

25 Q And that's the same form that now you're saying you

1 ripped up, is that true?

2 A I tore it in half, yes.

3 Q You tore it in half.

4 MR. GORLA: Could you give me a minute, Judge?

5 THE COURT: Sure.

6 MR. GORLA: Judge, I have no further questions.

7 THE COURT: Redirect?

8 MR. DITTMEIER: Yeah, just one question, Judge.

9 THE COURT: All right.

10 REDIRECT EXAMINATION

11 BY MR. DITTMEIER:

12 Q Mr. Newlin, you just testified that when you went in --
13 after Melvin Griesbauer was killed, you went in on that Monday
14 and told them about being asked to kill David Crawford?

15 A Yes.

16 Q And you told Sergeant Wilhoit about the situation where
17 the insurance papers had been made out?

18 A Yes.

19 Q Okay. Did you indicate that you would look for those
20 insurance papers?

21 A Yes, I believe so.

22 Q And did you look for them?

23 A Yes, I did.

24 Q Did you find them?

25 A No, I have not. We've had a house fire since then, so I

1 have no --

2 Q But you -- but you told him you had them?

3 A I thought I'd had them, yes.

4 MR. DITTMEIER: Okay. All right. I have no further
5 questions.

6 THE COURT: Anything else?

7 MR. MCGRAUGH: No questions, Your Honor.

8 MR. GORLA: No, Your Honor.

9 THE COURT: All right. Thank you, sir. You're free
10 to go.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness.

13 MR. REILLY: Judge, we have two stipulations before
14 we call the next witness.

15 THE COURT: Okeydoke.

16 MR. REILLY: Ladies and gentlemen, this is
17 Government's Exhibit #43, Stipulation of Facts, Missouri Army
18 National Guard.

19 United States of America and Defendants Katherine A.
20 Mock and Elain Kay Young agree and accept the following facts
21 in this case to be proven.

22 At the time of his death in March 2006, in addition
23 to his employment at Cargill Meat Solutions, Incorporated,
24 Melvin Griesbauer was a soldier in the Missouri Army National
25 Guard. In his capacity as a soldier of the Missouri Army

1 National Guard, Melvin Griesbauer was deployed to serve in
2 Operation Iraqi Freedom from October 15th, 2004 to
3 September 20th, 2005. During this period, Melvin Griesbauer
4 was home on leave from December 24th, 2004 to January 14th,
5 2005.

6 And that stipulation is signed by the parties.

7 Judge, I'll also move at this time for the
8 introduction of Government's 44, 44A, and 44B. It's a
9 stipulation of facts regarding Melvin Griesbauer's employment
10 at Cargill and the hours that he worked. The record should
11 reflect that 44 is the agreement signed between the Government
12 and Elain Kay Young and her attorney, one of her attorneys;
13 44A is the exact same stipulation, but that is signed by the
14 Government and Ms. Mock and her attorneys, and at this time,
15 I'd ask for leave to publish Government's 44.

16 THE COURT: Very well.

17 MR. REILLY: United States of America and Defendants
18 Katherine A. Mock and Elain Kay Young agree and accept the
19 following facts in this case to be proven.

20 On April 19th, 2004, Melvin Griesbauer was hired by
21 Cargill Meat Solutions, Incorporated. Melvin Griesbauer was
22 on military leave from approximately mid July until his return
23 from being deployed in October of 2005, at which time he
24 resumed his employment at Cargill. Melvin Griesbauer worked
25 for Cargill at the plant located at or near 600 South Iowa

1 Avenue, Ottumwa, Iowa. This plant is located approximately 70
2 miles from the property at 17631 Penny Royal Lane, Novinger,
3 Missouri. It takes approximately one hour and 20 minutes each
4 way to drive from 17631 Penny Royal Lane -- Penny Royal Road
5 to the plant. During the week of March 20th, 2006, as set
6 forth in Government's Exhibit 44B, Melvin Griesbauer worked
7 the following hours:

8 Monday, March 20th, 1:16 p.m. to 11:58 p.m.

9 Tuesday, March 21st, 1:52 p.m. to 11:42 p.m.

10 Wednesday, March 22nd, 1:47 p.m. to 11:47 p.m.

11 44B is simply a Cargill business record that says
12 "Time Detail" and reflects the hours described in the
13 stipulation from March 20th through March 22nd.

14 At this time, Your Honor, the Government moves to
15 call Tim Eschmann.

16 THE COURT: Step right here, sir, and be sworn in by
17 the clerk.

18 (Witness sworn.)

19 MS. HERNDON: Judge, may we approach before we start?

20 THE COURT: Uh-huh.

21 (A bench conference was held on the record and outside of
22 the hearing of the Jury as follows:)

23 MS. HERNDON: Judge, I just wanted to re -- oh,
24 sorry. Sorry. I just wanted to renew our earlier objection
25 to this testimony. Whatever theory the Government is

1 proceeding under, whether this is 404(b) evidence or intrinsic
2 evidence of the crime, it's neither one. This man is somebody
3 who -- the person that she met under the Adult Friend Finder.
4 Actually, she knew him before that, but they connected through
5 the Adult Friend Finder service, and their relationship --
6 well, there isn't anything about this relationship that is
7 either intrinsic to the crime, goes to prove the crime, or is
8 404(b) evidence because there's no bad acts or anything
9 alleged here, so it's really just character evidence to
10 show -- to attempt to show that she was having an affair with
11 this guy while she was still married to her husband, which
12 just shows that she's a bad character, that she has propensity
13 to commit crimes because she's having affairs with her
14 husband. It doesn't go to show anything else that's relevant
15 at all to the case.

16 MR. REILLY: Judge, perhaps if Ms. Young was charged
17 with fraud that didn't relate to her husband, that might be
18 true, but what she's charged with is a murder-for-hire of her
19 husband, and her intent and disposition for her husband is
20 entirely relevant. The Friend Finder profile is relevant. As
21 I specified earlier, we'll be presenting a somewhat redacted
22 or less damaging version of the records. It doesn't contain
23 references to bra cup or bra size, but in terms of why it's
24 relevant, it shows her intent toward her husband. It is
25 intrinsic, and it is probative of her -- a fact in the case,

1 and that's her disposition and intent toward her husband. She
2 specifies that she's looking for a companion, and she was
3 actively seeking and dating other men, and she had a date with
4 Mr. Eschmann on March 21st in the evening hours to celebrate
5 his birthday on March 22nd, just about the same day
6 Mr. Griesbauer was killed, and she gave him a gift. This is
7 entirely relevant, and he will testify to a series of contacts
8 with her, a series of dates. They did meet on Adult Friend
9 Finder, and this was all during the course of her relationship
10 with Mr. Griesbauer, and aside from the Friend Finder profile,
11 it would be relevant on its own separate and apart from
12 Mr. Eschmann's testimony for all the reasons I specified when
13 we had this conversation during Detective or Lieutenant Hall's
14 testimony. Thank you.

15 MS. HERNDON: Well, Judge, I think that might be true
16 if there was some evidence that she killed her husband so that
17 she could be with another man. There's absolutely no evidence
18 of that. If there was some kind of insinuation or even a
19 little tiny speck of evidence that she wanted Mel dead so that
20 she could be with Tim Eschmann, then, yeah, it would be
21 relevant, but there's not even a suggestion of that. So we're
22 going to renew the previous objection and renew the objection
23 to the -- to Mr. Reilly referring to any content of the Adult
24 Friend Finder exhibit. What's the exhibit number?

25 MR. REILLY: 32 and 32A.

1 MS. HERNDON: Exhibit 32 -- 32 and 32A that's already
2 been admitted.

3 MR. REILLY: And if I may, just one other thing for
4 the record, Judge.

5 THE COURT: Sure.

6 MR. REILLY: The facts will speak for themselves in
7 terms of her disdain for Mr. Griesbauer that's reflected in
8 this when she's looking for somebody with a similar IQ, you
9 know, and this man is probably, by his profile that's in his
10 records, more sophisticated than Mr. Griesbauer, and the fact
11 that she had a date with him and gave him a gift within hours
12 of when her husband was murdered is entirely relevant of the
13 fact that she was looking for a companion, someone other than
14 her husband.

15 And aside from that, in September of 2007, she met
16 with him and they discussed life insurance. She said she was
17 going to collect on life insurance policies and sought his
18 advice on investment proceeds or how to invest the proceeds.
19 So this is intrinsic to the case, and it's probative of her
20 intent.

21 THE COURT: The objection is overruled.

22 (The following proceedings were held within the hearing
23 of the Jury.)

24 THE COURT: Proceed.

25 MR. REILLY: Thank you.

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TIM ESCHMANN,

HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
FOLLOWS:

DIRECT EXAMINATION

BY MR. REILLY:

Q I'm sorry. Would you state your name again, sir?

A Tim Eschmann.

Q Mr. Eschmann, what's your current occupation?

A I was in retail most of my life, but now I'm a partner
and business manager for a state agency contractor there in
Kirksville.

Q Thank you. Do you own an airplane?

A Yes, sir.

Q Are you a pilot?

A Yes, sir.

Q Do you also own a farm?

A Yes, uh-huh. I live on the family farm, which is 1,240
acres there in western Adair County, uh-huh.

Q 1,240 acres, did you say?

A Yes, sir, uh-huh.

Q And what do you do with the farm now?

A I -- since working in town, I lease the pasture out and
have CRP, which is government set-aside land, for part of it.

Q Did you have occasion to meet Elain Kay Young or make
contact with her in August or September of 2005?

1 A Yes.

2 Q What was the medium by which you initially contacted
3 Ms. Young?

4 A We dated for a few months beginning in that time, and we
5 actually met up on a dating website called Adult Friend
6 Finder.

7 Q And on Adult Friend Finder, do you have to be a member to
8 participate in Adult Friend --

9 A Yes. It's like a lot of them. You subscribe and you
10 post general information about yourself on a profile that
11 other members can look at, and then there's an internal system
12 to contact by email, you know, without knowing who it is to --

13 Q And is that what happened in this case? Did you have the
14 opportunity for -- to view Ms. Young's profile?

15 A Yes, that's correct, uh-huh.

16 Q And would she have had the opportunity to review your
17 profile?

18 A Yes, uh-huh.

19 Q And is this service something that's free?

20 A No. That's what I say. You subscribe, and when you're a
21 member -- I think people that don't subscribe can view them,
22 but you're not allowed to contact people unless you pay the
23 subscription and are a member.

24 Q And in the profiles, do people generally post some
25 information about themselves?

1 A Generally, yeah.

2 MR. REILLY: Okay. And now I'm going to show you --
3 I'm going to show you what's been marked as Government's
4 Exhibits 32 and 32A, and for the record, 32A is nine -- nine
5 records of -- nine pages of records with a business affidavit
6 related to Mr. Eschmann's account with Adult Friend Finder,
7 also known as Various, Inc. So I'll move for the introduction
8 of Government's 32A at this time, Judge.

9 THE COURT: Any objection?

10 MS. HERNDON: Our previous objection, Judge.

11 THE COURT: All right. 32A, was it?

12 MR. REILLY: 32A, Your Honor.

13 THE COURT: 32A will be admitted.

14 Q (By Mr. Reilly) Do you recognize Government's 32A, sir?

15 A Yes, uh-huh.

16 Q And I'm going to direct your -- your attention to the
17 profile section in 32A. Do you recall that profile?

18 A Yes. That was mine, uh-huh.

19 Q Okay. And I'm going to also direct your attention to
20 Government's 32, which are Ms. Young's records on the Friend
21 Finder website, and I'm going to direct your attention to the
22 profile section of that. Would you please take a moment to
23 peruse that profile?

24 A Okay.

25 Q Do you recognize that profile, sir?

1 A Yes, yes, uh-huh.

2 Q Is that the profile Ms. Young had posted?

3 A Yes, that's correct, uh-huh.

4 Q Thank you. Now I'm going to ask you, if you would, read
5 your profile to the ladies and gentlemen of the Jury.

6 A Okay. It's real short.

7 "I'm a well-educated businessman and have decided to
8 start working less. I'm six foot, one inch tall, 175 pounds,
9 blue-eyed, and thinning brown hair. I am a pilot and have my
10 own airplane and could come to see you. Let's connect.

11 Q Thank you. So in the information you posted, you
12 represented yourself to be a well-educated businessman,
13 correct?

14 A Correct, uh-huh.

15 Q And you also held out that you own your own airplane,
16 correct?

17 A That's correct, uh-huh.

18 Q And you're a pilot?

19 A That's correct, uh-huh.

20 Q I'm going to, for the record, publish the profile on the
21 records on Government's 32, and with the -- the profile,
22 individuals can also post additional information that's called
23 "Profile Want," correct?

24 A They're like preferences that people have for somebody
25 they're looking for, yeah. I mean none of that is really even

1 required, but most everybody at least puts something in that
2 text, you know, to give some idea about themselves.

3 Q Thank you. And the record should reflect this is date
4 registered 7-27 of '05, pnurse_kate@hotmail.com, "Looking for
5 men for one-on-one sex," and the profile is as follows:

6 "I enjoy life to its fullest, am a workaholic but take
7 time for play, not mind games. I own a farm, raise champion
8 bulldogs, and also work in the education field. My love life
9 is very important to me, so if you are the man who can take me
10 away from the stressors of my life, please send me a message.
11 I love to spoil my men. I am looking for a partner. I do not
12 need to be raised. I want a companion who is capable of
13 fulfilling my sexual and emotional needs, who has a similar
14 IQ, so we can connect on deeper levels. Things I enjoy in
15 life are riding horses, camping, fishing, hunting, riding
16 motorcycles, reading, and sex."

17 "Profile Want: A compassionate, sensual, well-endowed
18 male who actually knows how to make love. I am not into rough
19 or cruel sex. I want passion and fireworks, not scars and
20 bruises. So leave me a message, and we can see where this
21 leads. I do not want mind games or bullshit manipulation. If
22 you make a commitment to me and don't follow through, then you
23 are wasting my time. I am looking for a man who really knows
24 how to be the man of the house. Life is too short to waste a
25 moment of it."

1 And then the billing records indicate that this "Profile
2 Want" in the third page of the records is associated with
3 Elain Kay Young, and there's a credit card number specified
4 and address and other information.

5 Now, after -- after reviewing the profile, did you have
6 occasion to make contact with Ms. Young initially through the
7 Adult Friend Finder site?

8 A Yes, uh-huh.

9 Q And thereafter, did you communicate with her and she
10 communicate with you via cell phone or email?

11 A It was email, yes, uh-huh.

12 Q Thank you. Now, did you have occasion to take Ms. Young
13 flying sometime around September 14th of 2005?

14 A Yes, uh-huh, we --

15 Q Was that, if not your first date, right around the time
16 of your first date?

17 A Yeah, that was it, uh-huh.

18 Q And so that date was September 14th, 2005?

19 A That's correct, uh-huh.

20 Q And you -- have you had occasion to review your flight
21 logs to --

22 A Yes.

23 Q -- to verify the dates?

24 A Yeah, I keep a log book of all flights and who was with
25 me and what I was doing, and yeah, that's -- that's -- that

1 date is correct for that, yes.

2 Q Did you continue to see Ms. Young after that initial date
3 where you took her flying on September 14th, 2005?

4 A Periodically, yeah, uh-huh.

5 Q At some point, did you have occasion during the fall,
6 perhaps, to fly her to -- to another airport to eat dinner?

7 A Yeah. We went one evening to Quincy, Illinois, and ate
8 there at the cafe at the airport, uh-huh.

9 Q During your contact with Ms. Young, did you have occasion
10 to discuss her marital status with her?

11 A Yes. She, fairly early on, told me that she was
12 currently married and was -- the marriage was over, they were
13 going to get divorced, but they weren't going to do it until
14 in the spring.

15 Q Did she say why she was staying with her -- why she
16 didn't just get divorced in the fall?

17 A What I got -- it was a health insurance issue. It was to
18 stay on his health insurance for that period of time, yes.

19 Q That's what she represented to you?

20 A Uh-huh.

21 Q Did you have occasion to visit the farm where -- where
22 Ms. Young resides at 17631 Penny Royal Road?

23 A Yes. I was there a few times, uh-huh.

24 Q And what time of day were you normally at the farm?

25 A Umm, you know, we went into Kirksville and went out to

1 dinner a few times, and that was primarily when I was there,
2 and that would be in the evenings.

3 Q Did you ever meet her husband?

4 A No, I did not, huh-uh.

5 Q Did you ever have occasion to meet a woman named Kathy
6 Mock?

7 A Yes, I did, uh-huh.

8 Q And what were the circumstances under which you met
9 Ms. Mock?

10 A Well, Kay raises these bulldogs, and there was a trade
11 show for vendors that sell to producers in Springfield,
12 Missouri, that she was wanting to go to, and I agreed to fly,
13 fly her down there, and of course, when we got there, we
14 wouldn't have any transportation, so she said she had a friend
15 who would drive us around, and that turned out to be Kathy
16 Mock, yeah.

17 Q And -- and did you make this trip sometime around
18 February 25th of 2006?

19 A Yes, that's correct, uh-huh.

20 Q Did anybody accompany you and Ms. Young to Springfield?

21 A Umm, she had a young female friend in Brookfield that we
22 stopped and picked and also dropped her off on the way back.
23 Felicia.

24 Q And was that at Ms. Young's request that you stopped and
25 picked up Felicia?

1 A Yes, yes, uh-huh.

2 Q Felicia -- is her last name Lambert?

3 A I'm not certain. That's probably right. I don't know if
4 I even knew for sure.

5 Q Okay. That's okay. And would you tell us what happened
6 when you arrived in Springfield, just generally the day's
7 activities?

8 A Well, we went to this trade show through most of the
9 morning, and I took everybody out for lunch, and we went over
10 to Bass Pro Shop in the afternoon and came back essentially.

11 Q I'm going to direct your attention -- would you tell the
12 ladies and gentlemen of the Jury when your birthday is?

13 A My birthday is March 22nd.

14 Q Thank you. I'm going to direct your attention to
15 March 21st of 2006. Did you have occasion to have contact
16 with Ms. Young during the evening hours of March 21st?

17 A Yes. She called me and wanted to take me out for my
18 birthday, and we went out and ate dinner that night, uh-huh.

19 Q Where did you go to eat dinner?

20 A It was Kirksville, the Wooden Nickel, I'm pretty certain.
21 It's a restaurant there in Kirksville.

22 Q And Ms. Young wanted to take you out?

23 A Uh-huh.

24 Q This was during the evening hours of March 21st?

25 A That's correct, uh-huh.

1 Q And did she give you anything?

2 A She gave me an engraved money clip for a birthday
3 present, yes.

4 Q I'm going to hand you what's been marked as Government's
5 Exhibit #33. Do you recognize that?

6 A Yeah, that's it. Yeah, that's it, uh-huh.

7 MR. REILLY: Thank you. Judge, I'll move for the
8 introduction of Government's Exhibit 33.

9 MR. MCGRAUGH: No objection, Your Honor.

10 MS. HERNDON: Judge, we'd object based on the
11 previous grounds.

12 THE COURT: Very well. Noted. Overruled. Admitted.

13 Q (By Mr. Reilly) Is that the money clip?

14 A That's it, yeah.

15 Q I want to show you the -- you said there's an engraving.
16 Are those your initials at the top?

17 A Yes, uh-huh.

18 Q "TE, Happy Birthday 2006"?

19 A Yeah, that's correct.

20 Q Thank you. And that was what she -- she gave you on
21 March 21st, during the evening hours?

22 A That's correct, uh-huh.

23 Q And during this time frame, did she call you
24 occasionally?

25 A Yes, uh-huh.

1 Q And just for the record, what -- what was the cell phone
2 number you were using at the time?

3 A Mine?

4 Q Yes, sir.

5 A Same one I have now, which is 660-626-7210.

6 Q 660-626-7120?

7 A 7210. I'm sorry.

8 Q I'm sorry. Thank you. After -- did you eventually find
9 out that Ms. Young's husband was murdered?

10 A Yeah. It was in the media there in Kirksville, uh-huh.

11 Q After the murder, did you have some contact with her or
12 did she have contact with you?

13 A She called me several times, uh-huh.

14 Q Thank you. I'm going to direct your attention sometime
15 around Labor Day or September of 2007. Did you have any
16 further contact with Ms. Young?

17 A Not long before Labor Day, she had called me, and the
18 little town close to where we live has a Labor Day celebration
19 where they have a little parade, and she asked me if I would
20 come by and talk to her there -- she was going to be watching
21 the parade -- which I did.

22 Q And just to step back for a minute, were you -- were you
23 in the process of -- while you were -- before the murder of
24 Mr. Griesbauer, were you in the process of building a new
25 house?

1 A Yes, uh-huh. I built a new house there on the farm, and
2 it was just right during that same time period. We actually
3 started on it in the fall of '05, uh-huh.

4 Q And on your farm, the 1,240-acre farm?

5 A Uh-huh.

6 Q And was Ms. Young ever present, to your knowledge, when
7 the house was being built?

8 A At least one time, I remember her being out there,
9 uh-huh, when it was under construction, yes.

10 Q Did she talk to you or discuss anything with you that you
11 recall when she was out there?

12 A Well, I just -- I specifically remember because I was in
13 the process of setting a base cabinet and she had a suggestion
14 of where it should go, yes.

15 Q Okay. And -- thank you.

16 A You know, nothing else substantial that I can think of,
17 but that kind of sticks in my mind. It's been awhile now.

18 Q All right. And just moving back to this Labor Day event,
19 did you -- did you have occasion -- did you actually go meet
20 her at the Labor Day Parade?

21 A Yes, uh-huh, I did, uh-huh.

22 Q And did she bring up anything to ask your advice?

23 A That -- as far as what -- the only thing I really
24 remember specifically about the conversation was it had been
25 an issue about a death certificate being issued, and she was

1 feeling that one was going to be and that she would have some
2 life insurance benefits, and my background is in finance.
3 Asked me what I thought she should do with the money, how she
4 should invest it, yeah.

5 Q And at some point prior to that, had she made you aware
6 that there was life insurance on her husband?

7 A I don't remember exactly when, but there had been a
8 mention of a couple of policies on him, yes.

9 MR. REILLY: Thank you. I have no further questions
10 for this witness, Your Honor.

11 THE COURT: Cross-examination, Mr. McGraugh.

12 CROSS-EXAMINATION

13 BY MR. MCGRAUGH:

14 Q Good afternoon, Mr. Eschmann.

15 A Good afternoon.

16 Q My name is Chris McGraugh. I'm Kathy Mock's attorney. I
17 just have one or two questions for you.

18 A Okay.

19 Q This travel to Springfield to the trade show --

20 A Uh-huh.

21 Q -- I want to ask you about that. That was the first time
22 you met Kathy Mock?

23 A Yes, uh-huh.

24 Q And --

25 A Only time as far as that goes, yeah.

1 Q The only time you met Kathy Mock. And Ms. Young talked
2 about -- talked to you about Mock; would that be fair to say?

3 A A little bit, yeah, of course, you know.

4 Q Did she tell you that -- that her impression of Kathy was
5 she was suicidal because her -- she had recently caught her
6 husband in a homosexual relationship?

7 A Just before we left, she basically said, "I hope I see
8 her again because I'm concerned about her being suicidal."
9 Yes, just what you just said pretty much, yeah.

10 MR. MCGRAUGH: Okay. Thank you, sir. That's all I
11 have.

12 THE COURT: Ms. Herndon.

13 MS. HERNDON: Thank you, Judge.

14 CROSS-EXAMINATION

15 BY MS. HERNDON:

16 Q Mr. Eschmann, I want to ask you a little bit about your
17 relationship with Ms. Young. You said the first time that you
18 ever went anywhere with her was September 14th of 2005,
19 correct?

20 A Correct, uh-huh.

21 Q And you were aware from the outset that she was married,
22 correct?

23 A Yes. Well, as of that meeting, and this was also the
24 time that she informed me that her and her husband weren't
25 going to stay together; that's correct.

1 Q Okay. So it was the very initial time you guys --

2 A It was pretty early on. I believe it was the first --
3 the first meeting, yes, because I'm not in the habit of dating
4 married women, no.

5 Q Okay. So when you say you're not in the habit of dating
6 married women, she told you probably on the September 14th,
7 2005 meeting that she was married, correct?

8 A I believe that's correct, uh-huh.

9 Q But you continued to see her up until her -- well, and
10 even past when her husband died in March of 2006, correct?

11 A After that, the only time that I saw her was at that
12 Labor Day celebration, yeah.

13 Q Okay. So between September 14th of 2005 and March of
14 2006, you saw her -- what -- approximately how many times?

15 A I don't know exactly. Not a lot. Maybe eight or 10
16 times.

17 Q Okay. Eight or 10 times. Now, you say you're not in the
18 habit of dating married women, so would you consider these
19 outings that you had with her more of like a casual
20 relationship?

21 A It was very casual, yes, uh-huh.

22 Q You never -- I'm sorry to ask you this, but you never had
23 a sexual relationship with her?

24 A No, I did not, no.

25 Q So you knew that Ms. Young and her husband were -- they

1 had agreed to separate, correct?

2 A That was what she told me anyway, yes.

3 Q Okay. You knew that they had planned to divorce in
4 spring of 2006?

5 A Well, again, did I know? This is what she told me, yes.

6 Q Okay. Right. I'm sorry. Well, did she make you aware
7 that she had a back injury?

8 A Yes, uh-huh.

9 Q And I think what you've testified to is that she said
10 that she needed to stay on her husband's health insurance to
11 take care of a surgery for that back injury?

12 A That was what I understood. That's what she told me,
13 yes, uh-huh.

14 Q Okay. Thank you. Now, you never hid your relationship
15 from Ms. Young's husband, correct?

16 A No, and I did not ever meet him. I never knew him at
17 all.

18 Q Okay.

19 A Yeah.

20 Q You told us -- okay. Well, let me ask you this.
21 Ms. Young never asked you anything about what your finances
22 were like, did she?

23 A Umm, I don't remember her specifically asking me. I'm
24 sure I probably discussed it some, but I don't -- you know,
25 this has been six years ago. I don't remember exactly.

1 Q You don't remember her ever asking you about your
2 finances, what your finances were like?

3 A I don't remember her specifically asking me, no.

4 Q You don't remember her ever asking you about any
5 insurance policies you might have had?

6 A No, I don't remember. I don't really remember on that
7 one way or the other to tell you the truth. I mean that's
8 been six years ago, you know.

9 Q Okay. Well, let me ask you --

10 A But I can't say, yes, I definitely remember her ever
11 asking me because I don't.

12 Q Okay. Let me ask you this. You have been interviewed by
13 the Missouri State Highway Patrol and the FBI about this whole
14 thing, correct?

15 A That's correct, uh-huh.

16 Q Do you recall being interviewed by Corporal Wilhoit from
17 the Missouri State Highway Patrol on April 24th of 2008?

18 A Yeah, that sounds right, uh-huh.

19 Q Okay. And if I told you that he represents that you said
20 she did not ask about your finances or insurance policies,
21 would you have any quarrel with that?

22 A No, I don't. Like I say, I don't specifically remember
23 her ever asking me about it, yeah.

24 Q Okay. Thank you.

25 A Again, I'm sure I probably mentioned some details about

1 my finances, but I don't recall now what.

2 Q Okay. Thank you. The evening of -- that the two of you
3 went out for dinner for your birthday, that was the evening of
4 March 21st, correct?

5 A Yes, uh-huh.

6 Q And would you describe Kay Young on that evening as being
7 her normal self?

8 A Yeah. Yeah.

9 MS. HERNDON: I don't have any other questions for
10 you. Thank you, sir.

11 THE WITNESS: Okay.

12 REDIRECT EXAMINATION

13 BY MR. REILLY:

14 Q Did you tell Ms. Herndon -- I think you said you had
15 approximately eight or 10 dates, somewhere in that
16 neighborhood, with Ms. Young?

17 A Yeah. I don't know exactly. We went out to dinner
18 several times and a couple of social functions, yeah.

19 Q And did some of those -- and, of course, you took her
20 flying at least the three times that we talked about?

21 A Right, right.

22 Q And the airplane fuel, that's not dirt cheap necessarily,
23 is it?

24 A Unlike all other fuel. No, that's true.

25 Q And a little more expensive even than gas these days,

1 right?

2 A Definitely.

3 Q Now, one of those dates was a wedding reception at the
4 Comfort Inn in Macon, correct?

5 A That's correct, uh-huh.

6 Q And then there was an occasion when you went horseback
7 riding at a friend of Ms. Young's in a town called Green --

8 A Well, it was a church function. I think she went a
9 little bit. She'd had this back injury and hadn't been able
10 to be on a horse, and I want to say these friends maybe had
11 one of her horses there or something, but yeah.

12 Q And then there were some other activities, and you went
13 to dinner with her, you said, on several occasions?

14 A A handful of times, yeah. That would be mainly the other
15 times that we went out, uh-huh.

16 Q And, now, in terms of that -- during that time, she also
17 had occasion to -- you said she didn't -- Ms. Herndon asked
18 you if she hid the relationship or if you hid your
19 relationship from Melvin Griesbauer -- your relationship with
20 Ms. Young, correct? She asked you that question, right?

21 A Yeah, yeah. I mean there was no hiding on my part;
22 however, I never did ever meet the man or ever talk to him, so
23 you know.

24 Q So over that five- or six-month period, you never met
25 him?

1 A That's correct. That's correct.

2 Q And whenever you were at the farm, he was not there,
3 correct?

4 A That's correct, uh-huh.

5 Q And you would eat dinner at nighttime with Ms. Young?

6 A Right, right.

7 Q Now, she also asked if you ever discussed finances.
8 She'd been on your airplane three times, correct?

9 A Uh-huh.

10 Q And your 1,240-acre farm, is that an attractive property,
11 a nice property physically?

12 A Oh, yeah, yeah.

13 Q And you were building a new house on that property?

14 A That's correct, uh-huh.

15 Q And she had been to the area where you were building a
16 new house?

17 A Uh-huh.

18 Q Thank you. I have no further questions.

19 A I might also have just sold my business right then, too,
20 yeah.

21 Q And what was the business that you had sold?

22 A I had a fairly large retail flooring store there in
23 Kirksville, uh-huh.

24 MR. REILLY: Thank you. I have no further questions.

25 THE COURT: Anything else?

1 MR. MCGRAUGH: Nothing, Your Honor.

2 RECROSS-EXAMINATION

3 BY MS. HERNDON:

4 Q Mr. Eschmann, I know it's been a long time, but I just
5 want to briefly take you back again and ask you about your
6 April 24th, 2008 interview with Corporal Wilhoit. Do you
7 recall telling him, when he was interviewing you about your
8 relationship with Kay Young, that you all did not try to hide
9 your relationship from Mr. Griesbauer?

10 A I don't recall that, but I did not try to. Yeah, I
11 don't -- you know, he very well may have asked me that and I
12 may have said that, but I don't recall it specifically.

13 MS. HERNDON: Okay. Thank you, sir.

14 THE COURT: All right. You may step down.

15 Call your next witness.

16 Step right over here, sir, right here, and be sworn
17 in by the clerk.

18 (Witness sworn.)

19 MS. HERNDON: Can we come up before we start?

20 THE COURT: Sure.

21 (A bench conference was held on the record and outside of
22 the hearing of the Jury as follows:)

23 THE COURT: Yes, ma'am.

24 MS. HERNDON: Again, I just want to renew our
25 objection under whatever theory the Government is offering

1 this evidence, 404(b) or as extrinsic evidence of the crime,
2 because it's not either one. This is someone that she met and
3 had a relationship with after Mr. Griesbauer died, and there's
4 no insinuation or suggestion that she ever tried to kill him.
5 Well, I guess there could be, but there's certainly no
6 evidence that she ever tried to kill him. It's completely
7 irrelevant to the charges. It's definitely more prejudicial
8 than probative. Again, it just goes to show her bad
9 character. Yeah, I guess that's it.

10 MR. REILLY: It's intrinsic to the crime, Your Honor.
11 It shows she developed a close relationship with him within
12 five weeks of the homicide, and over the course of their
13 relationship, she requested money, borrowed money from
14 Mr. Goodwin here to get the life insurance or the death
15 certificate, so she could collect on the life insurance. In
16 that respect, it's very intrinsic to the crime. Aside from
17 that, it's also relevant because Mr. Goodwin discovered the
18 chat, Government's Exhibit #12, when Ms. Young was having the
19 relationship with Mr. Robins, and he's the one who would
20 forward the chat on to the police, and then he had a falling
21 out with Ms. Young after discovering the chat. It all goes to
22 show the circumstances under which Robins was made a part of
23 the case as well, and that, of course, is incriminating in and
24 of itself because --

25 THE COURT: This is the Yahoo! chat?

1 MR. REILLY: No. This is the chat where he says,
2 "I've kept quiet."

3 THE COURT: Yeah.

4 MR. REILLY: It's the chat that was seized on or at
5 least created -- it appears to have been created on May 3rd of
6 2007, and that's relevant because it goes to show that Mr. --
7 Mr. Robins certainly has knowledge of the case, and it tends
8 to corroborate him when he says that there was -- there was
9 statements by Ms. Young, "I'd like to kill the son of a bitch.
10 I wish the son of a bitch was dead," and it relates the whole
11 circumstances, (a) that it occurred and then (b) how it
12 came -- how Robins came to the attention of the authorities,
13 and that all relates to Robins' credibility as well.

14 MR. DITTMEIER: Yeah, and she also specifically
15 asked -- can you hear me? She also specifically asked this
16 gentleman if he would put her on his life insurance, which
17 shows her fixation on life insurance, her knowledge of life
18 insurance, and he in fact put her on as beneficiary with his
19 life insurance and listed her as a friend. Melvin
20 Griesbauer's initial life insurance before he was ever married
21 to her -- and she was on there as a friend. Both of them to
22 the exclusion of family members.

23 MS. HERNDON: Well, he also had his daughter on his
24 life insurance policy, so it's not correct to say it was
25 exclusion of family members, but it still is the -- it

1 still -- this happened after the fact. There is nothing,
2 nothing that makes having life insurance on your spouse
3 something illegal or suspicious. I mean all of this goes --
4 this is -- this is not going to show anything other than her
5 propensity to do something that's wrong and that she's a bad
6 character.

7 MR. REILLY: And, Judge, that's simply not the case.
8 The life insurance is also relevant to show the close
9 association. It shows that she asked him to be the -- be a
10 beneficiary on -- she asked to be a beneficiary on his life
11 insurance, and it shows that it's more likely than not that
12 she -- she was close enough to him to ask for the money to pay
13 for the attorney so she could collect on her life insurance.
14 Also, it's intrinsic to the case as well, so it's relevant to
15 show association.

16 MS. HERNDON: Well, there's nothing illegal about
17 collecting on life insurance that you have on your spouse. I
18 mean that's just not inappropriate. So borrowing money from
19 him to collect on life insurance that was rightfully hers is
20 not -- there's nothing wrong with that.

21 MR. REILLY: And, Judge, that would seem to be an
22 argument -- I'm sorry.

23 THE COURT: In light of our earlier discussions on
24 this issue and inclusive of our discussions here at sidebar,
25 the objection is overruled, and I would just caution you that

1 with respect to the examination of this witness, Mr. -- what's
2 his name -- Goodwin?

3 MS. HERNDON: Goodwin, yeah.

4 THE COURT: Let's just keep it narrowed to those
5 things that we discussed.

6 MS. HERNDON: Can I, while we're up here, object to
7 Government's Exhibit 38A, which I guess is a -- well, are you
8 going to play it?

9 MR. REILLY: Yes. We intend to play two phone calls,
10 Judge. After Mr. Goodwin found the chat between Mr. Robins
11 and Ms. Young, their relationship had a falling out
12 sometime --

13 THE COURT: Goodwin and Young?

14 MR. REILLY: Goodwin and Young. Once Goodwin found
15 out that Young was apparently still continuing to have a
16 relationship with Robins, there was a falling out between
17 Goodwin and Young because Goodwin wanted to -- wanted to
18 separate himself from Young, and she continued to pursue him,
19 and these -- these two voicemails -- there were many
20 voicemails, but we've narrowed it down to two voicemails that
21 just reflect the tenor of their relationship that she was --
22 she was pursuing him, and it's relevant because it
23 corroborates his -- it shows -- (a) it shows the course of
24 their relationship; it corroborates that he did get the chat,
25 and then it shows that she was close to him, pursuing him. It

1 corroborates his testimony related to the other things we've
2 discussed.

3 MS. HERNDON: Well, no, it doesn't. I mean this is
4 not *One Life to Live*. I mean, seriously, that was canceled.
5 The fact that they had a falling out over some third guy has
6 nothing to do with anything. I mean, so what?

7 MR. REILLY: Well, the third guy just happened to be
8 the guy who was telling her he kept quiet because she was
9 threatening to kill the -- kill the -- or she wanted the --
10 the, as she referred to it, son of a bitch dead, and so,
11 again, if this was a fraud case or something not related to
12 Melvin Griesbauer, then Ms. Herndon would be right.

13 MS. HERNDON: Well, it doesn't matter who the --
14 sorry.

15 THE COURT: Do we really need to get into this,
16 Michael?

17 MR. REILLY: Okay, Judge, we'll withdraw it.

18 THE COURT: All right. Oh, I said, do we really need
19 to get into this, Michael?

20 MR. REILLY: We think so, but I understand your
21 ruling. We'll withdraw it. We may hold him back.

22 THE COURT: All right.

23 MR. REILLY: Thank you.

24 (The following proceedings were held within the hearing
25 of the Jury.)

1 THE COURT: Proceed.

2 MR. DITTMEIER: Thank you.

3 JAMES R. GOODWIN,

4 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
5 FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. DITTMEIER:

8 Q Would you state your name for the Jury, please?

9 A James R. Goodwin.

10 Q And where do you live at, Mr. Goodwin?

11 A Denmark, Iowa.

12 Q And are you presently retired?

13 A Yes, I am.

14 Q And what was your occupation?

15 A Welding instructor, Southeastern Community College, West
16 Burlington, Iowa.

17 Q And how long were you a welding instructor?

18 A Twenty-eight years.

19 Q And how far is Denmark, Iowa, from Kirksville
20 approximately?

21 A Approximately 120 miles.

22 Q Now, do you know the Defendant in this case, Kay Young?

23 A Yes, I do.

24 Q And do you recall when you first met her?

25 A April of 2006.

1 Q And did you purchase a pony from her?

2 A Yes. The reason that I met her was I was looking for a
3 pony for my grandson and she had one for sale. I bought the
4 pony.

5 Q And were you going to give that pony to your grandson
6 back in Iowa?

7 A Yes, I was.

8 Q Did Ms. Young have any conversation as to when you were
9 going to give the pony to your grandson?

10 A Yes. She mentioned that she'd like to see his reaction
11 to the pony, and I said it would probably be the middle of the
12 week, the following week.

13 Q And this was like early May?

14 A Yes, it would have been.

15 Q Okay. And did she come up to Iowa to see you give the
16 pony to your grandson?

17 A Yes, she did.

18 Q And after traveling up there and seeing you give the pony
19 to your grandson, did Mrs. Young stay up there at all?

20 A Yes, she did.

21 Q And how long did she stay there?

22 A She stayed from Wednesday evening through Saturday
23 morning.

24 Q And where did she stay at?

25 A At my residence.

1 Q And while she was up there and as you got to know each
2 other, did you -- were you aware that -- what her occupation
3 was?

4 A She had mentioned that she was working for a doctor as a
5 nurse and she also had a teaching certificate.

6 Q Do you have any health problems?

7 A Yes, I do.

8 Q Did you ever discuss those health problems with
9 Ms. Young?

10 A Yes, I did.

11 Q Okay. And what are your health problems?

12 A Brittle diabetic. I've had some heart attacks, mild
13 strokes. I have five stents.

14 Q Did she suggest anything or anybody you might see with
15 your condition?

16 A She said that the doctor she worked for was really in
17 good on knowledge on diabetes.

18 Q And what was that doctor's name?

19 A Dr. Alt.

20 Q And where was she located at?

21 A Kirksville, Missouri.

22 Q And did you eventually go see Dr. Alt?

23 A Yes, I did.

24 Q Now, did you and Ms. Young keep continuing to see each
25 other?

1 A Yes, we did.

2 Q And did you have any common interests?

3 A Yes. We had horses and the education.

4 Q Did the two of you ride horses occasionally?

5 A Yes, we did.

6 Q At some point, would you stay weekends together?

7 A Yes, we would.

8 Q And was there any sexual contact at all?

9 A Yes.

10 Q Now let me direct your attention to, perhaps, early June.

11 I believe you said you met her at the end of April?

12 A Yes, I did.

13 Q Okay. In early June, did she ever have occasion to
14 borrow any money from you?

15 A Yes, she did. In June, she borrowed \$1,000 from me.

16 Q Did you ever have occasion, after she borrowed the money,
17 to discuss with her any financial difficulties she was having?

18 A We didn't go into great depths, but money was hard to
19 come by.

20 Q Did she ever discuss the mortgage on her farm?

21 A Yes, she did.

22 Q And what did she tell you about that?

23 A That just a short time before her husband was deceased
24 that they had taken a loan out on the farm.

25 Q Now, did you continue seeing each other through the

1 summer through 2006?

2 A Yes, we did.

3 Q And towards the end of the summer, perhaps, September of
4 '06, did she ever have occasion to borrow any more money from
5 you?

6 A Yes, she did. She borrowed \$1,500 in September.

7 Q Okay. And did she tell you what she needed that money
8 for?

9 A She needed to pay lawyer fees for a death certificate, I
10 believe, was what -- for her husband.

11 Q She was trying to get a death certificate on her husband?

12 A Yes.

13 Q Okay. Do you know whether she went and saw the lawyer?

14 A Yes, she did. I drove her down to Columbia, Missouri, to
15 see the attorney.

16 Q Did you go in with her?

17 A No, I did not.

18 Q But she borrowed that money, trying to get the death
19 certificate to get her insurance?

20 A That's what I understood.

21 Q Now, did Ms. Young ever discuss whether or not you had
22 any life insurance on you?

23 A Yes.

24 Q Did she ever make any request of you concerning your life
25 insurance?

1 A Yes, I would say there was a request.

2 Q And what did she ask you?

3 A That we were getting to be good friends and if she could
4 be put on as beneficiary.

5 Q Of your life insurance?

6 A Of my life insurance.

7 Q And did you in fact put her on?

8 A Yes, I did.

9 Q Okay. And would you recognize the beneficiary
10 designation on your group insurance if you were to see it
11 again?

12 A Yes, I would.

13 Q Let me show you what's been marked as Government's
14 Exhibit 38B1. Do you recognize that?

15 A Yes, yes, I do.

16 Q And does your signature appear on it?

17 A Yes, it does.

18 MR. DITTMEIER: At this time, Your Honor, I would
19 offer Exhibit 38B1 into evidence.

20 MR. MCGRAUGH: No objection.

21 MS. HERNDON: Just object based on our previous
22 grounds, Judge.

23 THE COURT: The objection is noted, overruled. The
24 exhibit is admitted.

25 Q (By Mr. Dittmeier) Mr. Goodwin, I'm showing the

1 beneficiary designation on this group insurance plan of yours.

2 Do you see your signature as the owner on there?

3 A Yes, I do.

4 Q And did you sign that?

5 A Yes, I did.

6 Q Okay. And does it show the date you signed it?

7 A Yes. October 23rd, '06.

8 Q Okay. And was Elain Kay Young put on this insurance
9 policy by you?

10 A Yes.

11 Q Had somebody else been on the insurance policy before?

12 A Yes. My daughter Tammy Lynn Dingman.

13 Q Okay. And when Ms. Young was put on, was she put on as
14 the sole beneficiary or a joint beneficiary?

15 A Joint.

16 Q So they would split the money if something happened to
17 you?

18 A Split the money.

19 Q Do you know approximately how much this insurance policy
20 was for?

21 A 60,000.

22 Q 60,000. Okay. Now, that was October 23rd, '06. In the
23 month of October of that year, did Ms. Young have occasion to
24 give you any pills?

25 A Yes.

1 Q And what did she give you the pills for?

2 A So I could get an erection.

3 Q But she gave you the pills?

4 A Yes.

5 Q Now, moving on into December of 2006, did you -- did you
6 quit teaching at that point?

7 A Yes. I went on medical leave.

8 Q And after that, in January of '07 and after that, did you
9 see -- have occasion to see Ms. Young anymore?

10 A Yes.

11 Q Were you staying more frequently at her place?

12 A Yes.

13 Q And that was where -- in Novinger?

14 A In Novinger, Missouri.

15 Q And did you bring any of your property down to her house?

16 A Yes, I did. I brought a couple of horses.

17 Q And they grazed down there?

18 A Yes.

19 Q And the two of you would occasionally ride?

20 A Yes.

21 Q Did Ms. Young ever indicate to you that she was seeing
22 anybody else while her deceased husband was in Iraq?

23 A I don't know how the conversation got brought up, but,
24 yes, she did mention a name.

25 Q And what name did she tell you?

1 A Kris Roberts, I believe, was his name.

2 Q And did she tell you why she was seeing him, anything
3 about his wife?

4 A She evidently was in the penitentiary.

5 Q Ms. Young told you that about this Kris Roberts?

6 A Yes, yes.

7 Q Okay. Now I want to direct your attention more into the
8 spring of 2007. Was there ever a time that you were at
9 Ms. Young's house in Kirksville and asked her if she could
10 give you some directions as to the best route to take to a
11 place in Kentucky?

12 A Yes, there was.

13 Q And what were you going down to Kentucky for?

14 A I had an old van that I drive the Amish with that broke
15 down in Kentucky. I had rented a van and had brought it back
16 and was going back to return the rented van and pick up my
17 broke-down van.

18 Q Okay. And you stopped in Kirksville?

19 A Yes, I did.

20 Q Did you have anybody with you?

21 A Yes, I did. I had a former student with me.

22 Q Okay. And what did you ask Ms. Young?

23 A For the quickest route to get down to where the van was
24 located.

25 Q And what did you receive?

1 A I received a MapQuest or whatever came off the computer,
2 directions to get there, and a couple of other papers with
3 that.

4 Q But the map was to show you the fastest route down there?

5 A Yes.

6 Q Okay. And after you left and started down the road, at
7 some point, you said you discovered there were other papers?

8 A I handed the map and the papers to my friend, the
9 student.

10 Q Yeah.

11 A And, all of a sudden, he said, "Oh, wow, what is this?"

12 Q Let me show you what's previously been marked as
13 Government's Exhibit 12. I'm going to show you Government's
14 Exhibit 12A and see if you recognize these.

15 A Yes. This was what was along with the map.

16 Q Okay. And I'll just show you this envelope and ask if
17 you recognize it -- Exhibit 12A.

18 A Yes. This is where I mailed a copy of that to the
19 attorney.

20 Q Okay. Now, Mr. Goodwin, when you discovered that this
21 had been turned over with the MapQuest, when you looked at it,
22 was there anything there that came to your attention?

23 A Several of the actions that they were taking and the name
24 of Kris at the farm store.

25 Q Kris, farm store?

1 A Yes.

2 Q And who did you associate that with?

3 A With Mr. Roberts.

4 Q Okay. And this was while you were still seeing Elain
5 Young?

6 A Yes.

7 Q Okay. Was there any phrase that gave you some concern in
8 there?

9 A What they were wanting to do and that he would keep his
10 mouth shut.

11 Q Okay. That he'd kept quiet?

12 A He'd keep quiet, yes.

13 Q Did you feel that might be significant?

14 A Yes, I did.

15 Q And you said with what they were going to do or what they
16 were talking about doing --

17 A Uh-huh.

18 Q -- that gave you some concern?

19 A Yes.

20 Q And at that time, you were fond of Ms. Young?

21 A Yes.

22 Q Now, you identified Government's Exhibit 12A. Did you
23 mail that somewhere?

24 A Yes. I dropped it in a Kirksville post office.

25 Q And you mailed it to who?

1 A To the district attorney.

2 MR. DITTMEIER: Okay. Judge, I'd offer Government's
3 Exhibit 12A into evidence.

4 THE COURT: All right.

5 MR. MCGRAUGH: No objection, Your Honor.

6 MS. HERNDON: Well, I would object based on my
7 previous objections related to Mr. Robins.

8 THE COURT: All right. The objection is noted,
9 overruled. 12A will be admitted.

10 Q (By Mr. Dittmeier) And is that your handwriting on 12A?

11 A Yes, it is.

12 Q And that exhibit is sent to the Adair County Prosecuting
13 Attorney?

14 A Yes.

15 Q And you mailed that because you thought that chat had
16 something to do with --

17 A This.

18 Q This case?

19 A With her husband's death.

20 MS. HERNDON: Judge, I would object to him
21 speculating about anything that that chat had to do with. He
22 wasn't a party to it.

23 THE COURT: Sustained as to form.

24 Q (By Mr. Dittmeier) Okay. Now, after you found this chat,
25 did you begin putting some distance between yourself and

1 Mrs. Young?

2 A Yes, I did.

3 Q Did you quit seeing her?

4 A Yes.

5 Q After you quit seeing her, did she try and make contact
6 with you?

7 A Yes, she did.

8 Q And how was she trying to do that?

9 A Numerous calls on my answering machine.

10 Q Were you --

11 A Several.

12 Q Were you picking up on those calls?

13 A I did not pick them up. They were recorded, though, on
14 my answering machine.

15 Q Was there ever a time when she indicated she was out in
16 your driveway calling you?

17 A Yes, I believe there was.

18 Q Okay. And that was recorded on your answering machine?

19 A Yes, it was.

20 Q And you've heard those recordings?

21 A Yes, I have.

22 Q And you've turned them over to the Government?

23 A Yes, I did.

24 Q And in those recordings, was she talking about needing
25 you?

1 MS. HERNDON: Judge, I would object to him -- based
2 on our previous conversation, I don't think he can sit here
3 and say what the content of the recordings were.

4 THE COURT: Yeah, let's stay away from that,
5 Mr. Dittmeier.

6 MR. DITTMEIER: Okay. Judge, I'd like to ask leave,
7 though, to perhaps qualify those later.

8 THE COURT: All right.

9 MR. DITTMEIER: I have no further questions of this
10 witness.

11 THE COURT: Very well.

12 MR. MCGRAUGH: I have no questions, Your Honor.

13 THE COURT: Ms. Herndon.

14 MS. HERNDON: Thanks, Judge.

15 CROSS-EXAMINATION

16 BY MS. HERNDON:

17 Q Mr. Goodwin, you've told us already that you have several
18 health issues, is that correct?

19 A Yes.

20 Q One of those issues is that you are a brittle diabetic?

21 A Yes.

22 Q And you've been taking insulin for, oh, at least 20 years
23 for that?

24 A Approximately 20 years, yes.

25 Q And you've also had heart attacks and strokes, is that

1 correct?

2 A Yes.

3 Q Do you take heart-related medication?

4 A Yes, I do.

5 Q You also have bipolar disorder, is that correct?

6 A Been diagnosed it, yes.

7 Q You take lithium to control that disorder?

8 A Yes.

9 Q Now, you told Mr. Dittmeier that at some point in October
10 Ms. Young gave you two blue pills, is that correct?

11 A Yes.

12 Q And that happened on two separate occasions, correct?

13 A Yes.

14 Q And the two occasions that she gave you those pills were
15 October 17th and October 18th, according to your testimony,
16 correct?

17 A Yes.

18 Q But she never told you what those were?

19 A No.

20 Q And right around this time, October 17th, October 18th,
21 you ended up in the emergency room, correct?

22 A Yes, I did.

23 Q And you were diagnosed as having dizziness, heart
24 problems, and hyperglycemia, correct?

25 A Yes.

1 Q You also told us about going to see Dr. Alt. Dr. Alt --
2 in fact, you're constantly seeking someone who can help you
3 with your diabetes, correct?

4 A Yes, I am.

5 Q And Dr. Alt knew about a specialist in Columbia, a
6 diabetes specialist in Columbia, correct?

7 A Yes.

8 Q And that was a doctor that you were interested in seeing,
9 right?

10 A Yes.

11 Q And so Ms. Young hooking you up with Dr. Alt who could
12 then hook you up with the specialist in Columbia was to your
13 advantage, correct?

14 A Yes.

15 Q Now let's talk about this chat conversation that you just
16 finished discussing with the prosecutor. You inadvertently
17 ended up with that in with the MapQuest papers, correct?

18 A I ended up with the -- yes, the chat on the computer,
19 yes.

20 Q I mean, it wasn't intended for you?

21 A I'm sure it was not.

22 Q Okay. And at the time, you were under the understanding
23 that you and Ms. Young were having an exclusive relationship?

24 A Yes.

25 Q And so you were hurt by what you saw there?

1 A Yes.

2 Q And you were in fact so hurt by it that you broke off the
3 relationship?

4 A Pretty much so, yes.

5 MS. HERNDON: Do you have, Tom, the life insurance?
6 Do you have the life insurance?

7 MR. DITTMEIER: Pardon?

8 MS. HERNDON: Do you have the life insurance exhibit
9 that you used?

10 MR. DITTMEIER: Yes.

11 MS. HERNDON: Excuse me just a minute, Mr. Goodwin.

12 Q (By Ms. Herndon) I want to ask you for just a minute
13 about Government's Exhibit 38B1, and this is the same document
14 that Mr. Dittmeier showed you a few minutes ago, correct?

15 A Yes, it is.

16 Q Was this document filled out by you?

17 A Yes.

18 Q And you're the one that wrote in your name and the name
19 of the beneficiaries on the policy?

20 A Yes.

21 Q And then you signed it?

22 A Yes.

23 Q And that happened -- you added Ms. Young to your life
24 insurance policy on October 23rd of 2006, correct?

25 A Yes.

1 Q And then after your relationship ended, at some point,
2 you removed her from your policy, correct?

3 A Yes.

4 MS. HERNDON: I don't have any other questions.
5 Thank you, sir.

6 THE COURT: Redirect?

7 MR. DITTMEIER: I just have one question, Judge.

8 REDIRECT EXAMINATION

9 BY MR. DITTMEIER:

10 Q Ms. Herndon asked you about when you took those little
11 blue pills --

12 A Yes.

13 Q -- that she gave you? And then she asked you about
14 having a reaction and going into the hospital?

15 A Yes.

16 Q Did you have the reaction after you took the pills?

17 A Yes.

18 Q And you took them twice?

19 A Yes.

20 Q And both times, there was a reaction?

21 A Yes.

22 Q Okay. But that's -- that's all; you just had a reaction
23 and went to the hospital and you were okay?

24 A I don't recall anything that happened during that time,
25 but, yes.

1 MR. DITTMEIER: Okay. All right.

2 THE COURT: Mr. McGraugh.

3 MR. MCGRAUGH: I just thought of a question.

4 RECROSS-EXAMINATION

5 BY MR. MCGRAUGH:

6 Q Mr. Goodwin, I'm Chris McGraugh. I represent Kathy Mock.
7 You didn't have a prescription for these pills, did you?

8 A No.

9 Q Ms. Young just gave them to you?

10 A Yes.

11 Q Do you know where she got them from?

12 A No idea.

13 MR. MCGRAUGH: Okay. That's all I have. Thank you,
14 sir.

15 MS. HERNDON: No other questions. Thank you, Judge.

16 THE COURT: All right. Thank you, sir. You're free
17 to go.

18 THE WITNESS: Thank you, Judge.

19 THE COURT: Call your next witness.

20 MR. CURRAN: Judge, may we approach for a second?

21 THE COURT: Uh-huh.

22 (A bench conference was held on the record and outside of
23 the hearing of the Jury as follows:)

24 MR. CURRAN: This relates to the next witness. I
25 have some materials I may need to -- may use on cross. I

1 assume the Government has it, but just in case.

2 THE COURT: All right. What is that?

3 MR. CURRAN: Kirksville has -- I think it's a
4 newspaper -- their home page where they have comments on --
5 where they have comments on issues of the day. Okay. With
6 relation -- with relation to this charge, there's an Internet
7 chat that goes on for -- actually, it goes on for 800
8 comments, but one of the people involved in the chat is
9 someone named Jean Ballard, and it's either under "Jean" or
10 under "Jean Ballard." Based on the contents, I'm sure it's
11 her. I may want to use some of this as fuel for cross, not a
12 lot of it, but what I did is I prepared copies of the chat
13 that I'll give to the Government, and then I also did a page.
14 These -- the comments are numbered. Okay. You'll see there's
15 a number there, and it says one, and these are the comments on
16 this murder that was reported. Okay. I've listed the numbers
17 of the ones that I believe are attributable to Jean Ballard.
18 I'll give you an example. Number 14. I'm sorry, Judge. I've
19 also circled. Here's one that says, "Jean Ballard: I was
20 Kathy's so-called best friend at the time. She came to my
21 house after. Jean Ballard." All right. I counted a total of
22 about 17 comments. I don't plan on getting into all of them.
23 What I did was I'll give you a copy, and then I highlighted --
24 these are the numbers of the comments I believe that are
25 attributable to her, and then I have highlighted in yellow the

1 ones I want to refer to, okay, and I can give you the general
2 areas. One of the general areas is there's another guy in
3 here, BJS, that says he's writing a book, and she agrees to
4 cooperate with him and give him information regarding the
5 book, and then there's a comment that she could also provide
6 information about Kay Young's -- not Kay Young -- Kathy Mock's
7 family for the book, and then there's also -- I think we
8 already have this in other discovery. She relates in the chat
9 when she first meets Kay Young, and there's a conversation at
10 Golden Corral where she claims Kay tells her that her husband
11 is trying to kill her. That may already be in evidence. So
12 I'm trying to make it easy. Okay. And I've got copies for
13 everyone. Those are the areas I'm thinking about. I know it
14 seems like a lot, but I'm not going to hit on all of them.

15 THE COURT: Okay. Are you guys good?

16 MR. DITTMEIER: Judge, I don't believe we are going
17 to have -- I don't believe we're going to have any objection
18 to this because I feel pretty certain she was on Topix. I
19 wouldn't want to waive any relevancy objection or -- and I
20 think if there's one that's questionable, whether it's her or
21 not, Kevin would bring it to our attention, but she was on
22 there. I don't know how often, but I don't -- we concede she
23 was on Topix, so if he's identified her --

24 THE COURT: Okay.

25 MR. CURRAN: I only have about three or four points I

1 want to make on it, so I'm not going to take her through all
2 the chat which --

3 THE COURT: All right.

4 MR. CURRAN: Okay.

5 THE COURT: Good.

6 (The following proceedings were held within the hearing
7 of the Jury.)

8 THE COURT: Call your next witness.

9 Proceed.

10 **JEAN BALLARD,**

11 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS
12 FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. DITTMEIER:

15 Q Would you state your name for the Jury, please?

16 A Jean Ballard.

17 Q And where do you live at, Ms. Ballard?

18 A Clinton, Missouri.

19 Q And do you know the Defendant Kathy Mock?

20 A Yes.

21 Q And were you friends with her?

22 A Yes.

23 Q And would you describe yourself as close friends?

24 A Very.

25 Q Let me direct your attention back to March of 2006. Do

1 you know where Kathy Mock was living at that time?

2 A In Cassville, Missouri.

3 Q And where were you living at?

4 A In Exeter, Missouri.

5 Q How far away from Cassville is Exeter?

6 A It was the next town over.

7 Q Okay. Are you talking about -- how many miles?

8 A Two or three.

9 Q A few miles?

10 A Yes.

11 Q Now, have you ever had occasion to meet Kay Young?

12 A Yes.

13 Q And how often did you meet Ms. Young?

14 A Two times.

15 Q And do you recall where you met her at?

16 A Once at a dog show and once at Golden Corral in Clinton,
17 Missouri.

18 Q Golden Corral is like an eating place?

19 A Yes.

20 Q Now, you said you were close friends with Kathy Mock.

21 Back in March of 2006, do you know what her financial
22 situation was?

23 A Very poor.

24 Q Okay. Did she owe you any money at that time?

25 A Yes.

1 Q And what did she owe you?

2 A Approximately \$2,800.

3 Q Now, do you recall hearing when Melvin Griesbauer was
4 killed?

5 A Yes.

6 Q At some time shortly before that, did Kathy Mock discuss
7 with you or bring up the money she owed you?

8 A Yes.

9 Q And what did she tell you?

10 A She told me she was going to pay me back everything she
11 owed me plus give me extra.

12 Q Did she indicate she was coming into some money?

13 A Yes.

14 Q Did you know a lady by the name of Keri Ponder?

15 A Yes.

16 Q And how did you know Keri Ponder?

17 A She was Kathy's ex-daughter-in-law.

18 Q Do you recall whether or not in March of 2006 she was
19 visiting Kathy in Cassville?

20 A Yes.

21 Q She was?

22 A Yes.

23 Q Did she ever have occasion to stay overnight at your
24 house during that period?

25 A Yes.

1 Q And do you recall, would that have been March 16th?

2 A Yes.

3 Q And what did she stay there March 16th for?

4 A I was taking her to the bus station the next day so she
5 could go home.

6 Q And where'd she live?

7 A In Boston.

8 Q So the evening of March 16th, she stayed at your house?

9 A Yes.

10 Q And that night she stayed at your house, did she relate a
11 conversation or anything that Kathy Mock had asked her to do?

12 A Yes.

13 MR. CURRAN: Judge, I'm going to object. It's
14 hearsay.

15 MS. HERNDON: Same objection, Judge.

16 THE COURT: Mr. Dittmeier.

17 MR. DITTMEIER: Judge, I -- I don't have to get into
18 the details of it.

19 THE COURT: All right.

20 Q (By Mr. Dittmeier) Okay. I believe you already answered
21 that she had a conversation with you about something Kathy
22 Mock had asked her to do?

23 A Yes.

24 Q And then the following day, did you in fact take Keri
25 Ponder to the bus stop?

1 A Yes.

2 Q Now let me direct your attention into the next week,
3 which would be March the 22nd of 2006. Do you recall when
4 Kathy Mock -- did you know her son Jason?

5 A Yes.

6 Q Okay. And do you recall what was happening to him that
7 week?

8 A Yes.

9 Q And what was that?

10 A He was going to court.

11 Q Okay. And that was on March the 22nd?

12 A Yes.

13 Q Did you, at any point that day, happen to get a call or
14 have a conversation with Kathy Mock?

15 A Yes.

16 Q And what did she tell you, or where'd she tell you she
17 was going?

18 A She told me she was headed to Joplin to the stress unit
19 at the hospital.

20 Q And that was on March 22nd she called you?

21 A Yes.

22 Q Did she tell you how long she'd be there?

23 A She told me she wouldn't be able to talk to me for two or
24 three days unless she needed me.

25 Q Now I want to direct your attention to the next day,

1 March the 23rd. Did you have occasion to be up in Clinton,
2 Missouri?

3 A Yes.

4 Q And tell the Jury, what were you up there for?

5 A To pay my taxes.

6 Q And did you come home that evening, or did you stay?

7 A I stayed the night at a hotel.

8 Q And at some point in the early morning hours, did you
9 receive a call from Kathy Mock?

10 A Yes.

11 Q Do you know about what time that was?

12 A Approximately 2:30 in the morning.

13 Q And when she called you, what was her condition?

14 A She was upset, very upset.

15 Q Did she tell you where she was at?

16 A She was in my driveway.

17 Q Back in Exeter, Missouri?

18 A Back in Exeter, yes.

19 Q Okay. And you said she was upset. Did you tell her to
20 do anything?

21 A I told her to go in the house and lay in the back room
22 until I got home.

23 Q Go to bed?

24 A Yes.

25 Q Did she want you to come home?

1 A Yes.

2 Q And what, if anything, did you do then?

3 A I packed up my stuff, and I got home as quick as I could.

4 Q Do you know about what time you got home that morning?

5 A I think it was about 6:30.

6 Q So you were back in Exeter at your house at 6:30?

7 A Yes.

8 Q And where was Kathy Mock when you got home?

9 A Laying in bed in the back room.

10 Q And she was sleeping?

11 A Yes.

12 Q Now, at some point after you got home, did you ever
13 receive a telephone call?

14 A Yes.

15 Q And Kathy Mock was still sleeping then?

16 A Yes.

17 Q And who did you get that telephone call from?

18 A Kay Young.

19 Q And what did she ask you?

20 A She asked me if Kathy was okay.

21 Q Okay. And did she refer to her as Kathy, or did she have
22 another name?

23 A It was Kat.

24 Q Kat?

25 A Kat.

1 Q Okay. She asked you if Kat was okay?

2 A Yes.

3 Q Okay. And what else did she say to you?

4 A She told me not to do or say anything to upset her and to
5 tell her that she loved her.

6 Q Kay Young said for you to tell Kathy that she loved her?

7 A Yes.

8 Q Now, she said, "Don't do anything to upset her"?

9 A Yes.

10 Q Did she mention what Kathy might have been upset about?

11 A No.

12 Q During that conversation, did Kay Young mention at all to
13 you that Kathy might have seen or known that her -- had been
14 up there when Kay Young's husband was killed or murdered?

15 A No.

16 Q She didn't say anything about that?

17 A No.

18 Q She just told you not to upset her?

19 A Yes.

20 Q Now, at some point after that, did Kathy Mock wake up?

21 A Yes.

22 Q And what was her condition when she woke up?

23 A She was wobbly.

24 Q And what did she do?

25 A She went into the bathroom to get sick.

1 Q And did you ask her any question while she was in there?

2 A I asked her if she took any pills.

3 Q Okay. And what'd she say?

4 A Yes.

5 Q And did she show you anything?

6 A Yes.

7 Q And what'd she show you?

8 A A bag of pills.

9 Q And how were they wrapped? Were they packaged or --

10 A They were in a gallon bag.

11 Q What -- like a freezer bag or something?

12 A A Ziploc bag, yes.

13 Q A Ziploc bag. Did she tell you what the pills were?

14 A She said they were Vicodin.

15 Q Now, at any point that morning, when she threw up and she
16 gave you the pills, at any point that morning, did she ever
17 tell you anything about Kay's husband?

18 A Yes, later on, she did.

19 Q And what did she tell you?

20 A She told me he was gone.

21 Q And you took that to be dead?

22 A Yes.

23 Q Did you have any more conversations with Kay Young that
24 morning?

25 A Several.

1 Q Okay. And what were those in reference to?

2 A She mostly asked me how Kat was doing and to let her know
3 that she loved her.

4 Q Every time, she'd say to let her know she loved her?

5 A Every time.

6 Q Did she also leave any voicemails at your house?

7 A Yes.

8 Q Now, at some point that morning, did you take Kathy Mock
9 to the hospital?

10 A Yes.

11 Q Was that the hospital in Cassville?

12 A Yes.

13 Q And when you got to the hospital, did you have any more
14 conversation with Kathy Mock about the pills?

15 A Yes.

16 Q And what did she tell you about those pills?

17 A She told me Kay Young gave it to her.

18 Q Okay. And did she say that Kay Young gave her any
19 instructions when she got to your house?

20 A She was supposed to take all of them so I could take her
21 to the hospital and she would only get 30 to 60 days in an
22 insane asylum instead of penitentiary time.

23 Q So Kathy Mock told you that Kay Young had given her the
24 pills?

25 A Yes.

1 Q And told her to take them when she got to your house?

2 A Yes.

3 Q And that you would take her to the hospital then?

4 A Yes.

5 Q And she'd get time in the insane ward instead of the
6 penitentiary?

7 A Yes.

8 Q Did she indicate to you that Kay Young had any expertise?

9 A She said Kay knew what she was doing because she was a
10 nurse.

11 Q Okay. Now, was that about 9:00 that morning when you got
12 her to the hospital?

13 A Yes.

14 Q After you got her to the hospital on March the 24th, did
15 you stay with her for a couple hours?

16 A Yes.

17 Q And when you left there, where did you go?

18 A I went out to her house to feed the bulldog puppies.

19 Q And was Thomas Ponder out there when you got out there?

20 A Yes.

21 Q And did you give him anything?

22 A I gave him the bag of pills.

23 Q I'm going to show you a bag that's marked as Exhibit 30A,
24 30A, and it's previously been identified by Lieutenant Hall of
25 the Highway Patrol, and inside of it, there is Government's

1 Exhibit 30 that I want to show you, and there's a bag inside
2 of there. Does that look familiar?

3 A Yes.

4 Q And what does that look like?

5 A That looks like the bag of pills that Kat gave me.

6 Q Okay. And then you took those pills and gave them to
7 Thomas?

8 A Yes.

9 Q Okay. Now, directing your attention on to March the
10 25th, which was a Saturday, and March the 26th, which was
11 Sunday, did you have occasion to meet with the Highway Patrol
12 people from up in around Kirksville?

13 A Yes.

14 Q They came down to talk to you?

15 A Yes.

16 Q And you told them what you knew about the situation?

17 A Yes.

18 Q Also, on March the 26th, did you have occasion to pick up
19 Kathy Mock's husband?

20 A Yes.

21 Q And that's Ralph Butch Mock?

22 A Yes.

23 Q And where did you pick him up at?

24 A The Kansas City Airport.

25 Q And where had he flown in from?

1 A Arizona.

2 MR. DITTMEIER: I have no further questions of this
3 witness.

4 THE COURT: Cross.

5 MR. CURRAN: Thank you.

6 CROSS-EXAMINATION

7 BY MR. CURRAN:

8 Q Ms. Ballard, I want to ask you some questions about you
9 and Kathy Mock. Up until March 22nd of '06, is it fair to say
10 you and Kathy were friends?

11 A Yes.

12 Q And how long do you think you'd known each other until
13 that day?

14 A About three, three and a half years.

15 Q Okay. And you both met; it was sort of dog breeding that
16 brought you together; is that fair to say?

17 A Pardon?

18 Q It's dog breeding that brought you together?

19 A Yes.

20 Q You had a dog you wanted to breed, and someone gave you
21 her name?

22 A Yes.

23 Q And it went from sort of that professional relationship
24 to a friendship, fair to say?

25 A Yes.

1 Q And your husband is disabled?

2 A Yes.

3 Q And Kathy knew him also?

4 A Yes.

5 Q And she'd spent time at your home over that three and a
6 half years, is that right?

7 A Yes.

8 Q And you and your husband had spent time at her home over
9 that three and a half years, is that right?

10 A Yes.

11 Q And you also knew her children?

12 A Yes.

13 Q Okay. And when you first met her, were you living in
14 Clinton at that point?

15 A Yes.

16 Q Okay. And she was living in Cassville?

17 A Yes.

18 Q And at some point, did you decide that you wanted to move
19 closer to where she was?

20 A Yes.

21 Q Okay. Was she helping you with that?

22 A Yes.

23 Q Okay. And -- and there were times that you would
24 entertain her family; you had her children over sometimes?

25 A Yes.

1 Q And sometimes she entertained you and your husband?

2 A Yes.

3 Q Okay. So it was a good friendship up until then?

4 A Yes, it was.

5 Q Now, you also knew Kay Young. Well, you knew Kay Young
6 not as well as you knew Kathy?

7 A I did not know her very well, no.

8 Q Well, you'd met her; you'd seen her twice?

9 A That's it, yes.

10 Q One time was at Kathy's house?

11 A Yes.

12 Q And she wasn't there for a real long time, but you did
13 see her?

14 A Yes.

15 Q You saw Ms. Young?

16 A Yes.

17 Q All right. And you got to see -- you saw how she acted,
18 and you saw how Kathy and she acted when they were together,
19 is that right?

20 A Yes.

21 Q And then the next time was at -- did you all eat at
22 Golden Corral?

23 A Yes.

24 Q Now let me -- I want to jump back for a second.

25 Ms. Young had talked to you about her husband and getting

1 disability for her husband?

2 A Yes.

3 Q All right. And that's something you were familiar with
4 because your husband was disabled?

5 A Yes.

6 Q And you told Ms. Young that, you know, maybe you could
7 give her some advice on how to get that, is that right?

8 A Very little, yes.

9 Q Okay. But at Golden Corral -- and Kathy was at that
10 dinner at Golden Corral, is that right?

11 A Yes.

12 Q Okay. Ms. Young talked to you a little bit more about
13 her husband, isn't that correct?

14 A Yes.

15 Q All right. And she told you that she thought her husband
16 was trying to kill her?

17 A No.

18 Q She never told you that?

19 A No.

20 Q You never told anybody that she told you that, that
21 Ms. Young told you that her husband was trying to kill her?

22 A No.

23 Q All right. Now, we're going to get back to that. I'm
24 going to ask you some other questions. Now let's go back to
25 the night that Kathy Mock called you. It would have been the

1 early morning of March the 23rd. You said you got the call
2 from Kathy but you weren't home, is that correct?

3 A Correct.

4 Q All right. But you did everything you could to get home
5 because you felt she was in need, is that right?

6 A Yes.

7 Q And when you got there, she appeared that she was in
8 need, fair to say?

9 A She was asleep when I got there, yes.

10 Q Okay. In the fetal position?

11 A Well, she was laying on the bed. I didn't go in and
12 check her. She was laying on the bed asleep.

13 Q Okay. At some point, she did get up and you saw her?

14 A Yes.

15 Q She threw up?

16 A Yes.

17 Q All right. Now, I looked at your prior statements. I
18 counted that you told the sheriffs that Kathy may have thrown
19 up at least three or four times while the two of you were
20 there; does that sound right?

21 A I don't remember that now, but --

22 Q Okay. But it was more than once?

23 A Yes.

24 Q She was visibly sick?

25 A Yes.

1 Q Okay. And so when -- when the decision was made to take
2 her to the hospital, that made sense to you, obviously,
3 because she didn't seem like she was herself, is that right?

4 A She told me she took pills, and I wanted to take her to
5 the hospital.

6 Q All right. And she was also throwing up?

7 A Yes.

8 Q Okay. So that would be another indication to get her to
9 the hospital, is that correct?

10 A Yes.

11 Q Now, this conversation about how Beau died, that took
12 place when -- was there a conversation about that with Kathy
13 when she was on her way to the hospital?

14 A We was sitting at the kitchen table.

15 Q Okay. All right. And when you said Kathy -- you said
16 something like she wasn't sure if she was involved or not; was
17 that then at the kitchen table?

18 A No. That was in the car.

19 Q Okay. But that's when you're taking her to the hospital?

20 A Yes.

21 Q And that's after she's been throwing up, is that right?

22 A Yes.

23 Q And she also appeared to you to be upset?

24 A Yes.

25 Q Very upset?

1 A Yes.

2 Q And at that point, you were -- you were responding to her
3 as a friend, right?

4 A Yes.

5 Q You wanted to take care of her?

6 A Yes.

7 Q And she needed it?

8 A Yes.

9 Q Okay. Now, I think you've already said you observed Kay
10 Young and Kathy at least together only twice, is that right?

11 A Yes.

12 Q And was your opinion that Kay Young was the dominant one?

13 A Yes.

14 MS. HERNDON: Judge, I'd object to the speculation.

15 THE COURT: Rephrase.

16 Q (By Mr. Curran) Well, you knew -- you knew Kathy -- by
17 the time you met Kay Young, you knew Kathy for at least a
18 couple of years, is that right?

19 A Yes.

20 Q And you spent time with her, and you saw how she behaved
21 around other people --

22 A Yes.

23 Q -- is that right? And then when you saw her with Kay
24 Young, were you able to observe how she interacted with Kay?

25 A Yes.

1 Q Okay. And, now, based on what you knew about Kathy, did
2 she behave differently when she was with Kay?

3 A Yes.

4 Q All right. And can you explain what you observed as to
5 how they interacted?

6 A She -- Kathy seemed helpless.

7 Q When she was around Kay?

8 A Yes.

9 Q All right. And you're saying that based on having known
10 Kathy --

11 A Yes.

12 Q -- is that correct? Okay. Now I want to get back to
13 this -- I asked you about this statement that Kay Young --
14 whether Kay Young had told you that she thought her husband
15 was trying to kill her. Okay. Remember I just asked you
16 that?

17 A Yes.

18 Q And you're saying you don't remember any conversation
19 like that?

20 A No.

21 Q Okay. Now, if I said the word "Topix", T-O-P-I-X, do you
22 know what that means; do you know what that is?

23 A Yes.

24 Q Why don't you tell us what that is?

25 A It was a thing on the Internet that people wrote on.

1 Q Okay. Did you contribute to it?

2 A Yes.

3 Q So you -- and it was on the Internet, and there were
4 comments about this case, is that right?

5 A Yes.

6 Q Was it from the Kirksville newspaper?

7 A I don't remember where it was from.

8 Q Well, it was topics related to news in and around
9 Kirksville, fair to say?

10 A Yes.

11 Q And people would make comments; there'd be a news
12 article, and then people would do comments relating to that
13 news article, is that correct?

14 A Yes.

15 Q And there was a period of time in '06 through '07 where
16 you were contributing comments relating to this incident,
17 isn't that right?

18 A Yes.

19 Q And you were telling people on Topix what you knew about
20 the case, is that right?

21 A Yes.

22 Q You also told people what you knew about Kay and what you
23 knew about Kathy, isn't that right?

24 A Yes.

25 Q Okay. And now I assume you can't remember everything you

1 wrote?

2 A No.

3 Q Because I counted about 17 separate comments that you had
4 made.

5 A Okay.

6 Q Okay. All right. And let me ask you this; when you were
7 making the comments, was it under your name, "Jean Ballard"?

8 A Yes.

9 Q "Jean Ballard AOL"?

10 A Yes.

11 Q Is that right? Okay. And I think you've already said
12 that you made comments about, you know, what you knew about
13 Kathy and what you knew about Kay, right?

14 A Yes.

15 Q Okay. Now, and you're "Jean Ballard AOL"? Did I already
16 ask you that?

17 A Yes.

18 Q That sounds like you?

19 A Yes.

20 Q All right. And did you say -- now, this is discussing
21 the time you talked to Kay Young at the Golden Corral. "I
22 asked her if her husband had worked on getting his 100
23 percent." Now, I assume that relates to 100 percent
24 disability; does that sound right?

25 A Yes.

1 Q And you --

2 MR. DITTMEIER: What's the number?

3 MR. CURRAN: Oh, I'm sorry. I'm sorry, Tom. This is
4 Comment #35, and it's February 27th.

5 MR. DITTMEIER: Okay. All right.

6 MR. CURRAN: I'm sorry. It's Comment 35. I'm sorry.

7 MR. DITTMEIER: Thank you.

8 MR. CURRAN: All right. And, actually, I'm on the
9 next page. It starts at the bottom.

10 Q (By Mr. Curran) "She then told me something had to be
11 done before he killed her." Did you write that on Topix?

12 A I don't remember.

13 Q "She told me he followed her everywhere; he would look
14 over her shoulder when she was on her computer."

15 A I remember that.

16 Q Okay. "And I changed the subject by telling her, 'Good
17 luck.'"

18 A I remember that.

19 Q All right. Would it be helpful if I showed you this?

20 A Please.

21 MR. CURRAN: Okay. May I approach, Judge?

22 THE COURT: You may.

23 MR. CURRAN: I'm writing Defendant's Exhibit C on
24 this, Judge.

25 Q (By Mr. Curran) Have you had a chance to look at it?

1 A Yes, yes.

2 Q All right. Do you remember writing that now?

3 A Yes.

4 Q Okay. I'm going to let you hang onto that just in case
5 we need it some more. All right. Now, a couple more
6 questions about Topix. Also involved in the chat was someone
7 who said they were writing a book?

8 A Yes.

9 Q All right. And then you told them that you'd be -- you
10 would talk to them when this is over to give them information
11 for the book, is that right?

12 A Yes.

13 Q Okay. Are you still -- are you still communicating with
14 them about the book?

15 A I haven't talked to him for a long time.

16 Q All right. At some point, you -- it's in the chat that
17 you emailed him separately of this chat, is that right?

18 A Yes.

19 Q The guy who is writing the book, you contacted separately
20 to give him information for the book, right?

21 A Yes.

22 Q Okay. And then also on one of the comments, it's -- it's
23 #42, and that's on May 1st of 2007. You say to this -- well,
24 the person who's writing the book is BJS; does that sound
25 right?

1 A Yes.

2 Q Okay. And that's from Kirksville, Missouri?

3 A Yes.

4 Q Now, from my reading this, this BJS was pretty upfront.
5 His first post is, "I'm working on a book, and people give me
6 information." Does that sound right?

7 A Yes.

8 Q And then a number of comments later, you chime in that
9 you know things about the case?

10 A Yes.

11 Q Okay. And then some point later on, that's when you
12 contact him off the chat; you email him directly, right?

13 A Yes, but it didn't pertain to this case.

14 Q Okay. Now, at some point, this is -- this Posting #42,
15 March 1st, 2007, you say, "I can tell you a long story about
16 Kathy and her family. It would be a good but strange book."
17 You wrote that, right?

18 A Yes.

19 Q So you volunteered to this author that you were going to
20 give him information about Kathy Mock and her family so he
21 could include it in his book, right?

22 A Yes.

23 Q All right. Now, this is in '07, correct? Well, that's
24 the date, is that right?

25 A Yes.

1 Q All right. Ms. Mock's -- she's incarcerated at this
2 point, facing these charges, is that correct?

3 A Yes.

4 Q All right. And you've already been interviewed by the --
5 well, at least twice, you were interviewed by the Highway
6 Patrol, is that right?

7 A Yes.

8 Q And then you know that this case is pending and hasn't
9 gone to trial yet, right?

10 A Yes.

11 Q And you also know that you're a witness?

12 A Yes.

13 Q Okay. And you're making public statements about the case
14 in this "Comments" section, right?

15 A Yes.

16 MR. CURRAN: All right. I have nothing further,
17 Judge. Thank you.

18 THE COURT: Ms. Herndon.

19 MS. HERNDON: Thank you, Judge.

20 CROSS-EXAMINATION

21 BY MS. HERNDON:

22 Q Ms. Ballard, you said you only met Kay Young on the two
23 occasions that you testified about, correct?

24 A Yes.

25 Q You would describe yourself as best friends with Kathy

1 Mock?

2 A We were good friends.

3 Q Well, you said that she was the only friend you had since
4 you came to Cassville, right?

5 A Yes.

6 Q Now, Kathy Mock told you that Kay Young's husband was
7 physically and verbally abusive to her, correct?

8 A Yes.

9 Q And those words came from Kathy Mock's mouth?

10 A Yes.

11 Q And she also told you that something needed to be done
12 about him before he killed Kay?

13 A Yes.

14 Q You -- let's move forward to when you took Kathy to the
15 hospital. You've testified about how she showed up at your
16 house unexpectedly in the early morning hours, correct?

17 A Yes.

18 Q And you asked her if Kay killed her husband, correct?

19 A I don't remember that.

20 Q You don't remember asking Kathy Mock if Kay killed her
21 husband?

22 A No.

23 Q Okay. Do you remember testifying in front of the Grand
24 Jury?

25 A Yes.

1 Q And that was on August 27th of 2009, correct?

2 A Yes.

3 Q Okay. I'm going to hand you, Ms. Ballard, a copy of what
4 I am going to tell you is your Grand Jury transcript, although
5 you're free to look at it and take as much time as you need,
6 but is that in fact a transcript of the testimony that you
7 gave to the Grand Jury on August 27th of 2009?

8 A Yes.

9 Q I'm going to ask you to turn to page 45 of that
10 transcript, please. And on the very bottom of that page, did
11 Mr. Reilly, the Assistant U.S. Attorney, ask you, "Did you
12 ever ask -- you asked if Kay shot him, if Kay shot -- did you
13 ask Kathy Mock if Kay shot her husband?" Is that the question
14 Mr. Reilly asked you? On the very -- the last question on the
15 bottom of page 4 -- I'm sorry -- page -- you know what? I
16 gave you the wrong page number. It's 44. I apologize. Page
17 44. I'm sorry. Looking at the wrong page numbers. Let's go
18 back to the very last question on page 44. Mr. Reilly asked
19 you, "Did you ever ask -- you asked if Kay shot him, if Kay
20 shot -- did you ask Kathy Mock if Kay shot her husband?" Is
21 that what Mr. Reilly asked you?

22 A Yes.

23 Q And on the next page then, did you respond, "I asked her
24 if she killed her husband"?

25 A Yes.

1 Q And Mr. Reilly asked, "If Kay killed her own husband?"

2 A Yes.

3 Q And you responded, "Yes. I didn't know he was shot at
4 that time"?

5 A Correct.

6 Q And he asked, "And what did she say?"

7 A Yes.

8 Q And you answered, "She looked at me and shook her head no
9 very slowly"?

10 A Yes.

11 Q And he asked you, "So she shook her head no very slowly
12 as to indicate that Kay didn't shoot him?"

13 A What was that question again, please?

14 Q Did Mr. Reilly then ask you, "So she shook her head no
15 very slowly as to indicate that Kay didn't shoot him?"

16 A Yes.

17 Q And you responded, "Yes"?

18 A Yes.

19 Q And did Kathy Mock also in fact tell you that "I think I
20 shot him, but I don't remember it"?

21 A It wasn't exactly in those words.

22 Q Okay. Well, let's go down a little bit further on page
23 45 of your Grand Jury testimony. The last question on that
24 page, did Mr. Reilly ask you, "So her words were something" --

25 MR. DITTMEIER: Your Honor -- excuse me, Jennifer. I

1 want to object here that this is improper use of the
2 deposition. The question should be asked of the witness as
3 opposed to being read, and then if the witness needs her
4 memory refreshed or testifies to something different than in
5 the deposition, then she can be -- that can be put out there
6 to see if it refreshes her memory.

7 MS. HERNDON: Well, that's what I --

8 MR. DITTMEIER: This is improper just going down the
9 page and reading.

10 MS. HERNDON: Oh, no. That's what I did, Judge. I
11 asked her, I said, "Did she tell you, 'I think I shot him, but
12 I don't remember it'?" And she said it wasn't those words, so
13 I want to show her that in her Grand Jury testimony that's the
14 words she said she used.

15 THE COURT: Let's proceed.

16 Q (By Ms. Herndon) So the last question on page 45, did
17 Mr. Reilly ask you, "So her words were something to the effect
18 that she thinks she shot -- what were her -- if you could just
19 kind of capture that for us, what were her words -- what her
20 words were." Is that what he asked you?

21 A Yes.

22 Q And did you respond, "She said, 'I think I shot him, but
23 I don't remember it. Wouldn't I remember doing something like
24 that?'"

25 A Exactly, yes.

1 Q Okay. Thank you. Let's talk about these pills that you
2 got from Kat. Kathy volunteered, gave the pills to you,
3 correct?

4 A Yes.

5 Q And she told you that they were Vicodin, correct?

6 A Yes.

7 Q And you gave them to Thomas Ponder, correct?

8 A Yes.

9 Q And Thomas Ponder told you that he was going to sell
10 those pills?

11 A Yes.

12 MR. CURRAN: I'm going to object. That's hearsay.
13 It's unrelated to Mrs. Mock.

14 MS. HERNDON: Well, Judge, when Mr. Ponder testified,
15 he denied telling Ms. Ballard that, so I'm allowed to impeach
16 him with her.

17 MR. CURRAN: Well, actually, if Mr. Ponder was
18 sitting here, it might make -- you know, it might be relevant,
19 but he's not.

20 MS. HERNDON: It's a prior inconsistent statement of
21 Mr. Ponder's, Judge.

22 THE COURT: Overruled.

23 MR. CURRAN: But, Judge, it's a collateral issue, and
24 you're bound by his answers. It has nothing to do with the
25 guilt or innocence of Ms. Mock as to whether she can impeach

1 Mr. Ponder.

2 MS. HERNDON: It goes to his credibility, Judge.

3 THE COURT: It goes to his credibility. It's not
4 entirely collateral. It might be by a hair, but it does go to
5 his credibility. The objection is overruled, and you may
6 answer.

7 Q (By Ms. Herndon) So Mr. Ponder told you -- Thomas Ponder
8 told you he was going to sell those pills, correct?

9 A Yes.

10 Q Now, you talked about Kathy Mock telling you that Kay
11 Young gave those pills to her, correct?

12 A Yes.

13 Q And then you told us also about conversations that you
14 had with Kay Young about that very matter, correct?

15 A Yes.

16 Q And just to kind of put it in context, after Kathy came
17 to your house, Kay called you to check on her?

18 A Yes.

19 Q Excuse me. And over the next -- I don't know what --
20 couple of days, you and Kay Young had several phone
21 conversations back and forth?

22 A Yes.

23 Q And that had to do with the well-being of Ms. Mock?

24 A Yes.

25 Q And you asked Kay Young about the pills, correct?

1 A Yes.

2 Q And she told you that -- "What pills?" was basically her
3 response, correct?

4 A Yes.

5 Q And she denied giving the pills to Ms. Mock?

6 A Yes.

7 Q Now, you said that in addition to these phone calls,
8 Ms. Young left you some voicemails when you all weren't able
9 to reach each other by phone?

10 A Yes.

11 Q And in one of those voicemails, she indicated to you that
12 she had been going through the house, trying to figure out if
13 any medications were missing from her house?

14 A Yes.

15 Q And she recommended that --

16 MR. DITTMEIER: Judge, I'm going to object that this
17 is just calling for hearsay.

18 MS. HERNDON: Well, I mean if they can bring out that
19 Kathy said that Kay gave her the pills, then I can bring out
20 that Kay said she didn't give her the pills.

21 MR. DITTMEIER: She's not a party-opponent, Judge.
22 It's hearsay.

23 THE COURT: Yeah. This one is sustained.

24 Q (By Ms. Herndon) Okay. Let's talk about your
25 conversation with Thomas Ponder. Thomas Ponder told you that

1 his mom had asked him to commit the murder, is that correct?

2 MR. CURRAN: Judge, let me object to this as hearsay.

3 THE COURT: Sidebar. Actually, ladies and gentlemen,
4 while we're resolving this legal issue, why don't we go ahead
5 and take a recess for you. During the course of the recess,
6 do not discuss the case amongst yourselves or with anyone
7 else. Do not allow anyone to discuss it within your hearing
8 or presence. Do not form or express any opinions about the
9 case until it is given to you to decide, and do not utilize
10 any social networking websites during the course of the
11 recess. Fifteen.

12 (The following proceedings were held outside the hearing
13 and presence of the Jury.)

14 THE COURT: You may be seated.

15 Young lady, if you want to take a break yourself,
16 too, and step out into the hall because we're not going to be
17 doing anything else with you until they all come back in,
18 so -- and when you come back, you'll still be under oath,
19 okay?

20 THE WITNESS: Okay.

21 THE COURT: Did you want them to stay? Do you want
22 your clients to stay?

23 MR. CURRAN: No. If they want to use the facilities,
24 that's all right.

25 THE COURT: Okay. Yeah.

1 (Defendants left the courtroom.)

2 THE COURT: Do you want to do it at the podium then?

3 All right. All right.

4 MR. CURRAN: Judge --

5 THE COURT: And let me preface Mr. Curran's argument
6 in favor of his objection by saying I'm kind of lost where
7 you're going, Ms. Herndon, so -- but I'm sure you'll explain
8 it to me when Kevin is finished. Go ahead, Kevin.

9 MS. HERNDON: I'd be happy to.

10 MR. CURRAN: Well, first of all, Thomas Ponder hasn't
11 come -- didn't come up on direct, so it's outside the scope of
12 direct. I didn't get into it on cross. We've already --
13 we've heard from him, and any conversations that Ms. Ballard
14 did or didn't have with Mr. Ponder, they're not relevant and
15 it's hearsay and it doesn't -- it's not going to go to prove
16 or disprove whether Ms. Mock, you know, is guilty of anything,
17 so I don't know if there's more -- I anticipate there may be
18 more they want to get into, so maybe we should hash it out
19 now, but, you know, nobody got into it; I didn't get into it
20 in my cross, so it's not like the gate was opened.

21 THE COURT: All right. Ms. Herndon.

22 MS. HERNDON: Well, I mean I can -- technically, I
23 can call her back in my case if that's how you want to do it,
24 but I asked Thomas Ponder on his cross-examination, "Didn't --
25 didn't you tell Jean Ballard that your mom had asked you to

1 commit the murder?" And he said, "No." And then I asked him,
2 "Didn't you tell Jean Ballard that your -- that you told your
3 mom to wear gloves and a mask so she wouldn't get gunpowder on
4 her hands?" And he said, "No." And so to impeach his
5 credibility, I'm allowed to elicit from her that, "Yes, he did
6 tell me those things," and that's -- I mean those are the two
7 questions I'm going to ask him or ask her, and it's solely
8 just to impeach his credibility.

9 THE COURT: All right. So the first question that
10 you're going to ask Ms. Ballard is --

11 MS. HERNDON: "Mr. Ponder told you his mom asked him
12 to commit the murder?"

13 THE COURT: And the second question is --

14 MS. HERNDON: "Mr. Ponder told you that he informed
15 his mom how to wear gloves and a mask so that she would not
16 get gunpowder on her hands?"

17 THE COURT: Mr. Curran.

18 MR. CURRAN: Well, let's follow this to its logical
19 conclusion. The Government put on a witness, Thomas Ponder,
20 that implicates Kathy Mock, right, that he's solicited, "Kathy
21 Mock solicited me to kill Mr. Griesbauer," is that correct?

22 THE COURT: Uh-huh.

23 MR. CURRAN: All right. So what does she need to
24 impeach his credibility for? I mean that's a straw man or a
25 straw woman, a very strong straw woman. I mean that's not why

1 she's trying to do it. She wants the statement out for the
2 truth of the matter. There's no reason for them to impeach
3 Thomas Ponder's credibility because everything he says
4 helps -- you know, mostly helps them and hurts us. So they're
5 saying they want to impeach a witness who basically is in
6 their favor, so it's not about impeachment, okay.

7 Next thing is it's a collateral issue. I mean Kathy
8 Mock's not involved in this conversation. Nothing directly
9 goes to her. You know, it's one witness talking to him about
10 hearsay. Okay. Primarily, it is extremely prejudicial to
11 Ms. Mock because the direction we're going is -- is -- why
12 they want this in is because she, Ms. Ballard, is going to --
13 they anticipate Ms. Ballard is going to describe that Thomas
14 told Ms. Mock how to do the murder close to the way that it
15 was done, okay, so that's extremely prejudicial, and none of
16 these words are out of Kathy Mock's mouth. Okay. So we're
17 not talking about impeachment. We're talking about they want
18 this out for the truth of the matter because it doesn't make
19 any sense they would want to impeach this witness, so if you
20 balance that against the prejudice to Ms. Mock, then, you
21 know, it doesn't get in. Now, it's fair game to ask Thomas,
22 and we didn't object because if Thomas said, "Yes, I told my
23 mom" or "My mom told me," but I think beyond that, you know,
24 it's collateral, it's extremely prejudicial, and it's not
25 admissible.

1 MS. HERNDON: Well, Judge, it's anything but
2 collateral. It goes to the issue that we're here about, and I
3 mean it's just -- I'm sorry that it's prejudicial to
4 Mr. Curran. I wish you would have given us severance, but you
5 didn't, so I can't not do what's right --

6 THE COURT: Yeah, it's my fault.

7 MS. HERNDON: It is your fault. It all goes back to
8 you, but I can't not do what's right because it hurts
9 Mr. Curran, and I mean this is sort of the stuff you learn
10 your first year in law school. When somebody comes in and
11 says something and you have evidence that they said something
12 contrary to that, you bring a person in to impeach them, and
13 to say that we don't need to impeach Thomas Ponder is
14 craziness because he said, "Kay Young wants her husband
15 killed; Kay Young is willing to pay \$10,000 to have her
16 husband killed." That's certainly prejudicial to me. So I
17 mean I -- I need to show that this guy is all over the place,
18 making statements inconsistent and lying about what he's
19 saying, and that's -- I mean, yeah, he's one of the main
20 witnesses against Ms. Young, so it's -- I think it's anything
21 but collateral or anything else.

22 THE COURT: Anything else?

23 MR. CURRAN: Judge, I just -- you've seen everything
24 we've seen, and if you think that, you know, Ms. Young's
25 lawyers are going to get up and say, "Don't believe Thomas

1 Ponder," you know, it's just not going to happen.

2 MS. HERNDON: Well, yes, it is.

3 THE COURT: Well, that's -- that's the way they
4 framed it, you know, and it would be professionally insane to
5 get up and say something contrary to the way they framed the
6 objection or the statement in favor of overruling the
7 objection. I think you get this question, so I'm going to
8 overrule the objection. That doesn't mean that when he
9 objects to anything else --

10 MS. HERNDON: Those are the only two questions I'm
11 asking. That's it for that topic, and I'm moving on.

12 THE COURT: All right. Kind of like the Jeffersons.

13 MS. HERNDON: Exactly.

14 THE COURT: No. They were moving on up.

15 MS. HERNDON: I'm moving on up.

16 THE COURT: All right. You're not old enough for
17 that, though, so you never saw that show. There's no way.

18 Yes.

19 MR. DITTMEIER: Can we have a little break before you
20 call them back out?

21 THE COURT: Yes.

22 (Court recessed from 4:00 p.m. until 4:22 p.m.)

23 (The following proceedings were held within the hearing
24 and presence of the Jury.)

25 THE COURT: Proceed, Ms. Herndon.

1 Q (By Ms. Herndon) Ms. Ballard, I just have a few more
2 questions for you. When we took a break there, I was asking
3 you about a conversation you had with Thomas Ponder; do you
4 recall that?

5 A Yes.

6 Q And Mr. Ponder, Thomas Ponder, told you that his mom had
7 asked him to commit the murder, is that correct?

8 A Yes.

9 Q And Mr. Thomas Ponder also told you that he told his mom
10 how to wear gloves and a mask so that she wouldn't get
11 gunpowder on her hands, is that correct?

12 A Yes.

13 Q Let's talk for a minute about -- well, let me ask you
14 about a trip. You took a trip to Arizona with Kathy Mock,
15 correct?

16 A Yes.

17 Q And the purpose of that trip was to pick up some dogs
18 from Cindy Davis?

19 A Yes.

20 Q And you, in fact, picked up -- what -- about 40 dogs and
21 brought them back?

22 A I don't remember the number.

23 Q Okay. Do you recall the trip being in February of 2006
24 sometime?

25 A Possibility, yes.

1 Q And some of those dogs went to Kay Young, correct?

2 A Yes.

3 Q When -- I now want to forward you in time a little bit to
4 when you were talking with Kathy Mock after she came to your
5 house, after she showed up unexpectedly at your house. Okay.
6 She told you that Kay Young owed her \$2,800 for dogs, correct?

7 A I don't remember.

8 MR. DITTMEIER: Your Honor, I'm going to object to
9 this as calling for hearsay.

10 MS. HERNDON: Well, Judge, they've entered into this
11 area by talking about Ms. Mock saying that she was going to
12 come into some money and how is she going to come into some
13 money, and the answer here is that Kathy Mock told her that
14 Kay owed her \$2,800 for dogs.

15 MR. DITTMEIER: I'll withdraw the objection on that.

16 THE COURT: Okay. You may answer it.

17 Q (By Ms. Herndon) Okay. I'll ask you the question again.
18 Do you recall Kathy Mock telling you that Kay owed her \$2,800
19 for dogs?

20 A I do not remember that.

21 Q Okay. Would it, perhaps, help refresh your memory if you
22 looked at your Grand Jury testimony?

23 A Yes.

24 Q Okay. I'll ask you to look at that. You can just look
25 at it and read it. I believe it's on page 44 of your

1 testimony, although I might be wrong. Let's see. Actually,
2 it's on page 43. I'm sorry. About the middle of the page.

3 MR. DITTMEIER: Line 15.

4 MS. HERNDON: I'm sorry. That's helpful. Lines 15
5 through 18.

6 Q (By Ms. Herndon) Did you get a chance to look at that?

7 A Yes.

8 Q And did you in fact tell the Grand Jury that Kathy told
9 you Kay owed her money for dogs?

10 A Yes.

11 Q Thank you. Now I'm going to maybe stretch your memory
12 here, but do you recall, in March of 2006, Kathy Mock's cell
13 phone number as 417-342-0167?

14 A I do not remember that.

15 Q Okay. If I asked you if you recalled Ralph Mock's cell
16 phone number, could you potentially recall that?

17 A No.

18 MS. HERNDON: No. Okay. Thank you. I don't have
19 any other questions.

20 MR. DITTMEIER: I have no further questions, Judge.

21 MR. CURRAN: I have some, Judge.

22 THE COURT: All right.

23 RECROSS-EXAMINATION

24 BY MR. CURRAN:

25 Q I want to ask you about the phone calls from Kay Young

1 when you were with Kathy before she went to the hospital.

2 Okay. You said you had -- well, you probably didn't keep
3 count, but you certainly had more than one phone call from Kay
4 Young during that period, is that right?

5 A Is that before I took Kathy?

6 Q Well, before you went to the hospital. Kathy called you
7 at 2:30 a.m., right?

8 A Yes.

9 Q And then you rushed to meet her; you don't see her until
10 around 6:00 a.m.?

11 A Yes.

12 Q All right. And then at some point during the day when
13 you're -- before you get to the hospital, you get some calls
14 from Kay, is that right?

15 A I remember one.

16 Q Okay. And then Kay says -- that's the call where Kay
17 says, "Tell Kathy I love her"?

18 A Yes.

19 Q All right. Were there other calls from Kay during that
20 period of time when you got to the hospital or when Kathy was
21 in the hospital?

22 A There were several that day.

23 Q Okay. And several that day -- is it fair to say that the
24 general conversation was Kay calling, asking about Kathy, and
25 telling you to tell Kathy that she loved her or was thinking

1 of her and those sorts of things, is that right?

2 A Yes.

3 Q Okay. And Kay never volunteered to you that her husband
4 was gone, is that right?

5 A Say that again.

6 Q Well, Kay never volunteered and said, "Oh, I've also lost
7 my husband"? She never said that to you? You had to ask?

8 A Yes.

9 Q All right. Okay. So at the time that Kay is calling you
10 and telling you to look after Kathy and "Tell Kat I love her,"
11 you find at some point that Beau is deceased, is that right?

12 A Yes.

13 Q Okay. And I think at some point you told one of the
14 officers you thought it was strange that Kay didn't volunteer
15 that to you, didn't tell you that?

16 A Yes.

17 Q Okay. And also, Kay didn't seem to have a lot of
18 emotion --

19 MS. HERNDON: Judge, I'm going to object to this.
20 It's improper speculation, her opinion.

21 THE COURT: Rephrase your question.

22 MR. CURRAN: I'll withdraw it.

23 Q (By Mr. Curran) All right. And then when did the -- and
24 you were talking to Kay on Kathy's phone?

25 A Yes.

1 Q All right. Did you ever put Kay's number in your phone?

2 A No.

3 Q Okay. So all your phone calls with Kay were through
4 Kathy's phone?

5 A Most. I didn't have good reception on my phone.

6 Q Okay. And at what point do you think the phone calls
7 stopped from when you -- after you took Kathy in the hospital,
8 how long was she in the hospital before Kay stopped calling?
9 Let me change that. At some point, you stopped taking the
10 calls, is that right? You didn't answer?

11 A Yes.

12 Q Okay. And was that the last conversations you ever had
13 with Kay Young --

14 A Yes.

15 Q -- when Kathy was in the hospital? All right. Now, I
16 want to ask you about what you just told Kay's lawyer that you
17 had a discussion with Thomas about this incident.

18 A Yes.

19 Q Okay. Now, you said that he told you that Kathy had
20 asked him if he'd be willing to participate or kill Beau, is
21 that right?

22 A Yes.

23 Q Okay. Where was that? Where were you when you had that
24 conversation?

25 A We was sitting out in front of his truck.

1 Q All right. And was that at his home, at Kathy's home?

2 A Yes.

3 Q Okay. And you were staying at Kathy's home at that
4 point?

5 A No. I was taking care of her dogs.

6 Q Okay. You were taking care of the dogs to help Kathy
7 out?

8 A Yes.

9 Q Okay. And then you talked to Thomas about this incident,
10 right?

11 A Yes.

12 Q So one of the things he said, as already said, is that he
13 said that Kathy had approached him about this; you've already
14 admitted that a couple times, right?

15 A Yes.

16 Q And now you're also telling us that at that point he told
17 you that he instructed her how to do it, how to kill Beau?

18 A Yes.

19 Q Now, you were interviewed within a day or two of that
20 conversation by law enforcement, right?

21 A Yes.

22 Q Actually, and they recorded you on one of those days, is
23 that right?

24 A Yes.

25 Q Okay. There was no mention of that latter part of the

1 conversation in your recording or those interviews in March of
2 '06, is that right?

3 A I don't know.

4 Q You didn't tell them that Thomas said he instructed her
5 how to do it when you were interviewed in March of '06?

6 A If they didn't ask me, I -- I followed their questions.

7 Q Well, that's a pretty significant piece of information,
8 isn't it?

9 A Yeah. Yes.

10 Q Okay. Let me ask you; at that point when you were
11 interviewed on March 26th, did you have all the details of how
12 this happened? I mean, you knew Beau had been shot, but you
13 didn't know much more than that, is that correct?

14 A No.

15 Q All right. But at some point, through the publicity and
16 also the Internet, you found out more details; you found out
17 about the ski mask, is that right?

18 A I found out about that from Kathy.

19 Q All right. And then you found out about the gloves,
20 right?

21 A From Kathy.

22 Q Okay. But then you were also following the case on --
23 either online or in the newspapers, is that right?

24 A Yes.

25 Q I mean, you were talking about it on Topix --

1 A Yes.

2 Q -- right? And people are giving information, and you're
3 giving information, too, on Topix?

4 A Yes.

5 Q You're saying, "I know these people, and this is what I
6 know about it," right?

7 A Yes.

8 Q Okay. Now, the first time you mention that Thomas had
9 said to you that he told his -- you know, gave his mother
10 instruction was when you go to the Grand Jury, is that right?

11 A That's a possibility.

12 Q That's in August of '09?

13 A Yes.

14 Q Okay. That's when you talk about it?

15 A Yes.

16 Q Okay. And that's a few years later than when this
17 happened, is that right?

18 A Yes.

19 Q All right. Now -- and we've already talked about this,
20 that in one of your comments, you say to the author, "I can
21 give you information about the Mock family; it would be a
22 strange but interesting book." Do you remember writing that?

23 A Yes.

24 Q Okay. Now, the book is certainly more interesting if
25 Thomas is implicated in this, is that right?

1 MR. DITTMEIER: Your Honor --

2 A I don't --

3 MR. DITTMEIER: -- I'm going to object. That's
4 calling for speculation on the part of the witness.

5 THE COURT: Sustained as to form.

6 MR. CURRAN: No more questions.

7 MS. HERNDON: Nothing further, Judge. Thank you.

8 THE COURT: Anything on behalf of the Government?

9 MR. DITTMEIER: I have nothing further, Judge.

10 THE COURT: Thank you. You're free to go.

11 Call your next witness.

12 MR. DITTMEIER: Judge, we've moved considerably
13 faster than I thought we would this afternoon, but I think I
14 can finish in short order in the morning.

15 THE COURT: All right. So we'll recess for the
16 evening then?

17 MR. DITTMEIER: Please.

18 THE COURT: All right. Ladies and gentlemen, we will
19 recess for the evening at this time. During the course of the
20 recess, again, I remind you, do not discuss the case amongst
21 yourselves or with anyone else. Do not allow anyone to
22 discuss it within your hearing or presence. Do not form or
23 express any opinions about the case until it is given to you
24 to decide. Do not read, view, or listen to any media accounts
25 regarding the trial. Do not utilize the Internet in any

1 regard in that fashion and especially do not use the Internet
2 with regard to the use of any social networking sites. We'll
3 see you all tomorrow morning then at 9:30. Have a good
4 evening. Have a safe evening. See you then.

5 (Court adjourned at 4:33 p.m.)
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CERTIFICATE

I, Gayle D. Madden, Registered Diplomate Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 227 inclusive.

Dated at St. Louis, Missouri, this 4th day of August, 2012.

/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter